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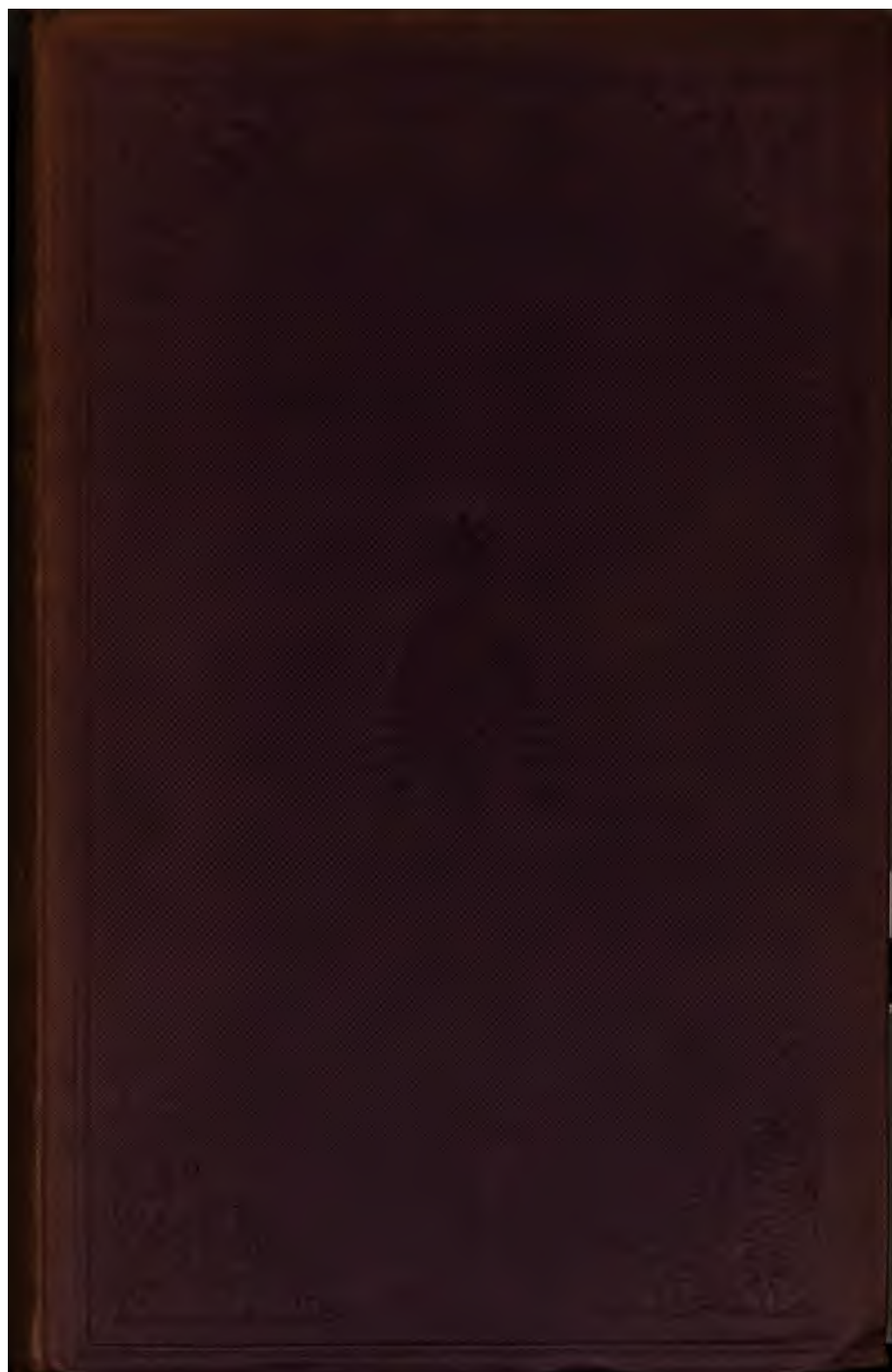
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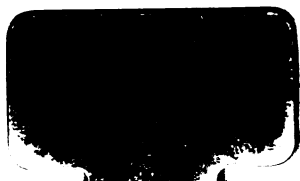


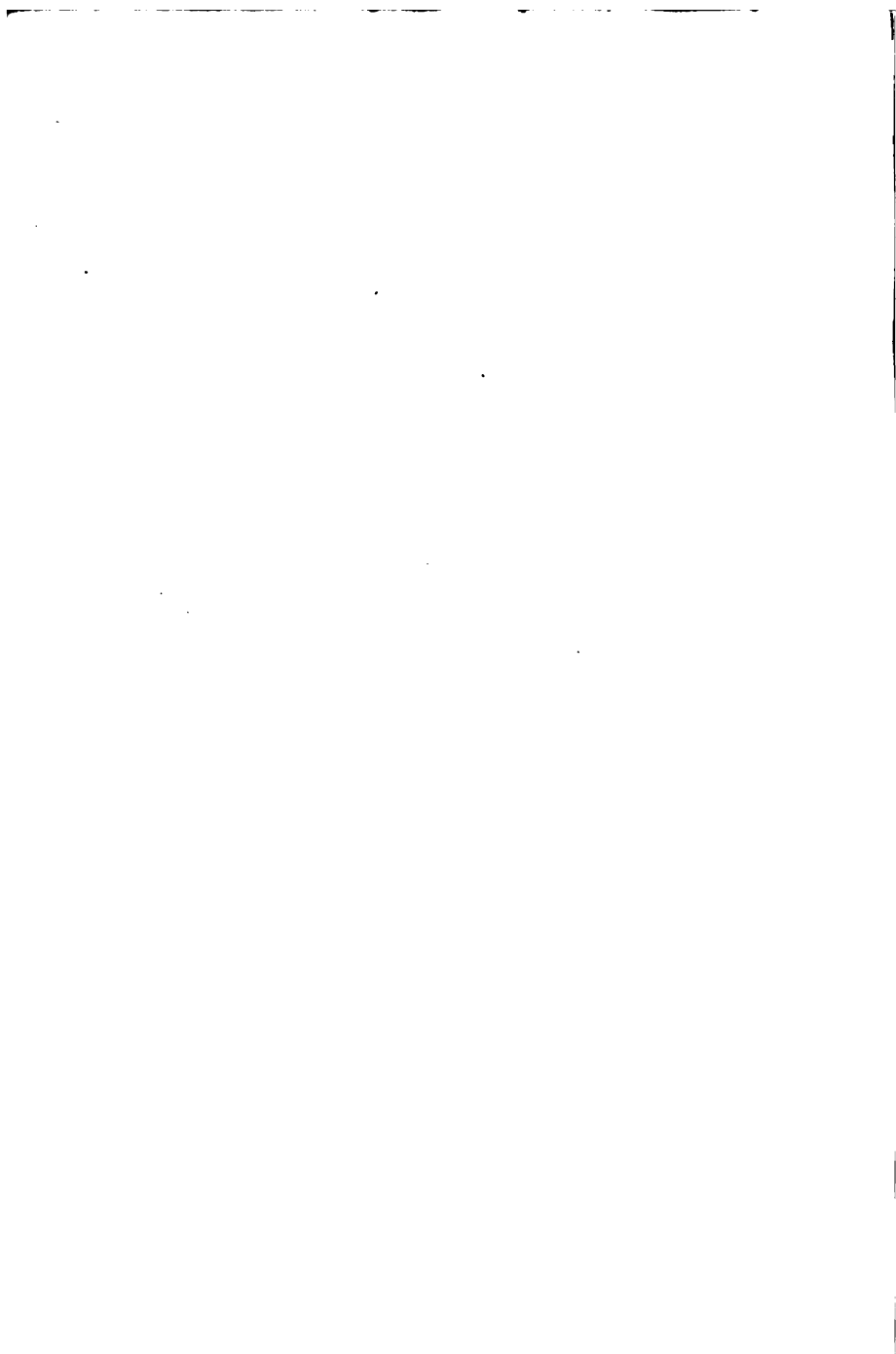


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OBSERVATIONS
ON
EXTENSION OF COPYRIGHT
OF
DESIGNS.

OBSERVATIONS
ON
EXTENSION OF PROTECTION
OF
COPYRIGHT OF DESIGNS,

WITH A VIEW TO THE
IMPROVEMENT OF BRITISH TASTE;

INCLUDING

THE ACT

PASSED 10TH AUGUST, 1842,—FOR CONSOLIDATING AND AMENDING THE
LAWS RELATING THERETO:

TO WHICH ARE ADDED

LEGAL AND PRACTICAL NOTES, WITH INSTRUCTIONS RELATIVE
TO THE REGISTERING OF DESIGNS.

BY

GEORGE BRACE,

SECRETARY TO THE LINEN DRAPERS', SILK MERCHANTS', LACEMEN'S, HABER-
DASHERS', AND HOSIERS' INSTITUTION.

~~~~~  
**LONDON:**  
**SMITH, ELDER AND CO., 65, CORNHILL.**

**1842.**



LONDON:  
PRINTED BY STEWART AND MURRAY,  
OLD BAILEY.

TO

J. EMERSON TENNENT, Esq. M.P. FOR BELFAST,

JOINT-SECRETARY TO THE BOARD OF CONTROUL FOR THE AFFAIRS OF  
INDIA, CHAIRMAN OF THE SELECT COMMITTEE OF THE HOUSE OF  
COMMONS ON COPYRIGHT OF DESIGNS, ETC.

---

DEAR SIR,

WHATEVER opinions were entertained in 1840, by the persons interested in the acquisition of an extended and efficient Copyright, as to the most fitting member of the House of Commons to take charge of that important measure, then about to be submitted to the Legislature, there is at this time—the close of the Sessions in which the long-pending Bill has become an Act,—but one conviction, viz. that the parties could not have been more fortunate than they were in obtaining your valuable assistance and most zealous co-operation. Long and violent as

Long and violent as has been the contest between individuals interested in the protection of their productions, and the copyists and pirates who shamelessly profited by their immoral and unjustifiable appropriation of the designs of others;—artists, inventors, manufacturers, and merchants all acknowledge themselves indebted alike to your zeal in enforcing their just claim to protection, as to the ability you displayed in detecting the fallacies, and combating the arguments of the non-extensionists.

Your present eminent position in connection with the internal affairs of our vast Indian Empire will give you an opportunity of applying in that stupendous field the knowledge which you possess of its almost inexhaustible commercial resources, and no member of the Legislature has shown himself more qualified than yourself to bring the requisite industry, perseverance, and judgment to their developement.

To you, sir, must be attributed the bene-

fits that will flow from this most salutary Statute, and I therefore beg very respectfully to dedicate the observations and notes, which in the hope of facilitating the first working of the Act I have prepared during a few hours snatched from a life of active business.

No person can be better aware than I am, that the subject deserves time and attention which I am unable to devote to it; and whilst I express a sincere wish that some more elaborate and useful work may appear, I shall indulge a hope, that my desire to render some little *early assistance* will ensure for me all just allowances for these hastily and imperfectly written pages.

I have the honor to be,

Dear Sir,

Your very obedient humble servant,

GEO. BRACE.

24, *Surry-street, Strand,*  
12th *August, 1842.*



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# OBSERVATIONS.

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## CHAPTER I.

The admitted disparity in French and British Taste—Taste defined—not natural, but acquired—Cause of French superiority—The Arrêt du Conseil du Roi—Extension of Protection of Lyons Silk Designs to other Articles of Manufacture—Conseil de Prud'hommes.

THE admitted inferiority of this country to France in all articles of manufacture, and in every class of production into which taste enters as an element, is so general, that it may be well to offer some observations on the cause of the acknowledged disparity of the two countries, and the practicability of Great Britain successfully competing with its continental rival in the Taste of its Designs.

During the three years which, on behalf of the Calico Printers and others, the author

professionally assisted Mr. Emerson Tennyson in his laborious enquiry before the Select Committee of the House of Commons, and in working up his comprehensive "Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture," he frequently heard doubted the utility of any legislative measure with a view to competing with France in the excellence of its taste; and the principal ground of such doubt was an expressed belief that the French possess NATURALLY more taste than the British; this, however, is a great error, and one which has operated most prejudicially to this country by disheartening its artists, and diverting the force of public opinion from the most important means of improving British Taste—*efficient protection*.

*Nature*, as regards taste (if, as according to Alison, it is to be considered as the faculty of the mind which enables us to perceive and appreciate whatever is beautiful and sublime) has not been more liberal to the inhabitants of the one country than to those of the other, inasmuch as, were a French and an English infant to be edu-

cated alike, and subjected to the same influences and advantages, it is an equal chance that a person, in predicating superior taste to the French child, would be wrong, as that he would be right ; for, bountifully as the French are supplied with some *natural products*, they are not more indebted to nature for intellectual taste, than are the English. Indeed, to allude to taste of another character, all fondness for our mothers' milk outlived, we possess no strictly *natural taste* whatever—our partialities for all other aliment are acquired ; and it may be contended that the superior intellectual taste of the elegant scholar and first-rate artist, is not a gift from nature, but is quite as much a matter of acquisition as the gourmand's ability to appreciate his high ragout, and delicately-flavoured champagne.

The superiority of the French taste is properly attributable to the cultivation of art,—and art is not to be encouraged in any country without restraining the hand of the

pirate, and securing to the artist and producer, a protection in the produce of their skill, labour, and capital. On this subject nothing more conclusive can be said than what Mr. James Thomson urged in his Letter to the Right Honourable R. Lalor Shiel, late Vice President of the Board of Trade,\* in which address, after adverting to the insecurity of property arising from the defective law of copyright, and the want of all motives for exertion to equal the taste and elegance of the French, he asks,—“ Who, sir, will plough and sow, to reap but a tythe, or, perhaps, the gleanings of his field? Who will plant a tree, if another is to carry off the fruit? A tenant may repair his roof to shelter him from the storm, but who will adorn his house to be ejected at quarter-day? What calico printer will make hazardous and expensive provision for the public taste,

\* Vide Letter by James Thomson, Esq., F.R.S., &c., of Primrose, Clithero, to the Right Hon. R. L. Shiel, Vice-President of the Board of Trade, and acting President of the Government School of Design.

when the failure is to be wholly his own, and the success is to be divided with others?"

In the early part of the last century the French entertained more correct notions of the rights of property in Design than the British, and so convinced were they that great benefits would flow from rejecting the claim of the copyist to reap the original producer's profits, that in 1737 and 1744 laws established a property in Designs for the manufacturers of Lyons, and in 1787 the benefits of legal protection were extended.

The Arrêt du Conseil du Roi is as follows:\*

"The King having caused to be represented to him in council the memorials and requests of the manufacturers of Tours and Lyons respecting the **ATTACKS MADE UPON THEIR PROPERTY**, and the general interests of manufacturers by **COPYING AND COUNTERFEITING** Designs, his Majesty recognized, that the superiority which the silk manufacturers of this kingdom had acquired, was principally owing to the invention, correctness, and good taste of Designs; that the

\* Vide, p. 572. *Traité de la Contrefaçon, et de sa poursuite en justice.* Par Etienne Blanc, Paris, 1838.



emulation which animated the manufacturers and designers would be destroyed if they were not assured of gathering the reward of their works ; that the certainty being in accordance with the rights of property, had maintained until that time the kind of manufacture (silk), and had obtained for it the preference in FOREIGN COUNTRIES. His Majesty in consequence judged it necessary to preserve all those advantages, and to spread to the other manufacturers of silk of his kingdom the rules made in 1737 and 1744 for Lyons, respecting the copying and counterfeiting of Designs, and to give to the inventors the power of preserving for the future, in a certain and invariable manner, their property, to excite more and more their talents by an exclusive enjoyment proportioned in its duration to the expences and merits of the invention. Willing, that this should be effected, the King, by the advice of the Deputies of Commerce, made eight orders relative to the exclusive enjoyment of patterns for manufacture of silk, wholly or in part for periods varying from *five to fifteen*\* years, on the condition of the new

\* The opponents of Copyright in England, desirous of

Designs being deposited in a Registry to be kept closed, and the inventors complying with the formalities and requisitions particularized in the eight articles.

In 1806 was established a Conseil de Prud'hommes at Lyons, in reference to the breaches of the Laws and Rules of Copyright, and the following articles provided for the protection of the property in Designs.

*Art. 14.*—That the Conseil de Prud'hommes should be charged with measures to preserve the property of Designs.

*Art. 15.*—That every manufacturer desirous of enforcing a claim before the Tribunal of Commerce in the property of a Design, should be required to deposit in the archives of the Conseil de Prud'hommes, a pattern folded under an envelope, with his

promulgating a different doctrine, presented a petition to the House of Commons in 1840, alleging, that the inventor and printer of the designs to be protected by the proposed Bill, had (as the petitioners contended) no just title to any further advantages than those they must always and necessarily possess, in the means of entering the market with the patterns before any other house could do so—of being the only holder until other houses could bring it round, and of being known in the trade as the originators of the pattern.

seal\* and signature, to which was to be attached the seal of the Conseil de Prud'hommes.

*Art. 16.*—That the person depositing Designs should enter the same in the Registry, kept for that purpose by the Conseil de Prud'hommes, who were to deliver to the manufacturers a certificate, shewing the number of the order of the parcel deposited.

*Art. 17.*—That in case of disputes between two or more manufacturers, respecting the property of a Design, the Conseil de Prud'hommes should open the parcels deposited by the parties, and furnish a certificate indicating the name of the manufacturer entitled to priority.

*Art. 18.*—That on the deposit of a pattern, the manufacturer should be required to declare whether he intended to preserve the exclusive property therein during one, three, or five years, or for perpetuity.

*Art. 19.*—That on the deposit of the pattern the manufacturer should pay a fee,

\* "Le cachet de la communauté et celui du propriétaire seront apposés à l'instant de la rédaction sur l'esquisse du dessin ou sur l'échantillon, lequel restera entre les mains du propriétaire avec extrait du procès verbal."—Art. 5.

which should be regulated by the Conseil de Prud'hommes, but which was not to exceed a franc for any one year, during which he should preserve the exclusive property of his Designs, and ten francs were to be paid for perpetual protection.

By a Royal Ordonnance of August, 1825, relating to the orders of deposits of Designs :

In consequence of a memorial from the manufacturers, not included in a district of the Conseil de Prud'hommes, desiring to have an extension of the benefits of Copyright conferred on them, and to have an officer for that purpose appointed,

It was ordered,

*Art. 1.*—That the deposit of the patterns of Designs, under the 15th Article of the law of the 18th of March, 1806, should be received for all manufacturers situated out of the jurisdiction of a Conseil de Prud'hommes, by the officer of the Tribunal of Commerce.

*Art. 2.*—That the deposit should be made in the prescribed forms, for the same deposit as in the archives of the Conseil de Prud'hommes by the Articles 15, 16 and 18, Sect. 3, Tit. 2, of the law of the 18th of

March, 1806; and it was to be received gratuitously, *except* the fee of the officer for the deliverance of the certificate proving the said deposit.

Thus, adopting at an early period, a correct principle, the French extended the application of copyright to all productions of industrial art; and at this time, France affords, at a small cost, protection of sufficient duration, with effectual and speedy redress for the infringement of copyright. In no other country is there so comprehensive a copyright, and in the markets of every civilized country the elegant productions of France are esteemed in preference to those of all other nations.

## CHAPTER II.

**Effect of protection on the morals of Manufacturers—Admitted English piracies and copies—Extracts of Minutes of Evidence of three Magistrates before the Select Committee of the House of Commons—The Equity and Justice of Copyright declined to be entered into—Injurious effects of copying on Trade—Public exposure and odium attached to a convicted case of piracy in France, committed by a Mayor and his Deputy—Comparative duration of Copyright in France and Great Britain—Mr. Thomson's tabulated Statements.**

IN France, it appears that the soundness of her views in creating and protecting property in Designs has raised the morals of her people by inducing a detestation of the crime of piracy ; whilst in England, Designs, without legal and lasting protection, offered a strong temptation to the unscrupulous, and induced the perpetration of acts, which for moral turpitude cannot be too strongly reprobated. In Lancashire copying and piracy were for some time carried on with impunity, and to so low an ebb on this particular point

was moral feeling reduced, that the most astounding evidence was given before the Select Committee of the House of Commons by three opponents of extension of Copyright—*all magistrates*.

The first of the three witnesses alluded to volunteered to assist the Committee in its enquiries. He was the Boroughreeve of Manchester, and described himself as having been engaged upwards of thirty years in printing calicoes, and the sole proprietor of an extensive concern for that purpose. The following are extracts from the minutes of his evidence :—

821. *Q.* Have you been in the habit of copying the Designs of other parties?—*A.* I have.

822. *Q.* Have you done it extensively?—*A.* Pretty well formerly ; not within the last eight or ten years.

823. *Q.* Before the last eight or ten years, did you do it extensively?—*A.* I did as many as I found to answer my purpose ; and I think a fair quantity I did.

824. *Q.* Did you do it during the existence of the legal copyright?—*A.* Yes.

825. *Q.* Did you derive profit from it?—

*A.* Yes ; sometimes, and sometimes loss ; but more profit than loss.

826. *Q.* Did the parties whose patterns you so copied experience any injury in their trade from your so doing ? — *A.* They have never given me any legal notice that they would proceed against me. They might think that they were injured.

827. *Q.* In point of fact, do you conceive that the interests of parties were interfered with by such copying as you then practised ? — *A.* I think they got more money by people copying than otherwise, because they took the lead of the trade ; they have all thriven but one.

828. *Q.* In those cases where you copied other persons Designs, during the existence of their legal Copyright, do you apprehend that any of the parties were interfered with by your so doing upon those particular patterns ? — *A.* They might be interfered with in those particular patterns, because I sold them cheaper.

829. *Q.* You were understood to say that you have so copied the designs of others during the continuance of the present three months' copyright ? — *A.* I have.



830. *Q.* You say that you sold the patterns so copied cheaper than the original designers sold them. Was your work equally good with the work produced by the original designers?—*A.* It might, or might not be.

831. *Q.* Generally speaking, have your engravers who copied those patterns, executed as fair work, and in as expensive a manner as the original designer?—*A.* I always think my work as good when I imitate a pattern, and I think generally as good as theirs.

832. *Q.* In those cases which you now speak of, were the copies of as good execution, and printed upon as good cloth as the originals from which you took them?—*A.* Generally speaking, they were upon *inferior cloth*. My work was, upon the average, as good as theirs.

833. *Q.* May not that account for your selling them at a cheaper rate, without any disposition upon your part to be content with smaller profits than other men?—*A.* IT WAS NOT WORTH MY WHILE COPYING THEM UNLESS I GOT A GOOD PRICE FOR THEM, AND PLENTY OF ROOM FOR ME TO

SLIP UNDER ALSO. They got a good profit, and I got a good profit.

834. Q. Does not it follow that your interfering with their copyright was injurious to their profit upon those goods in cases where the law gave them an exclusive right of sale for three months?—A. It would interfere with them ; but they would have the benefit of it afterwards.

888. Q. Can you state how often you have copied patterns within three months?—A. I have done a good many.

889. Q. Have you frequently not only copied after the three months, but even during the three months?—A. Yes.

890. Q. Have you, when you copied a pattern within the three months, applied to the owner of the pattern for liberty to do so?—A. No.

898. Q. Does not it strike you that you must appear to the Committee to be rather an interested witness against copyright, when you yourself have violated the law as it now stands?—A. For eight or ten years I have done nothing of the kind ; I have not copied eight or ten patterns the last ten years.

901. Q. Do not you think that when you do copy within the three months, you interfere with the rights of persons which are protected by law?—A. YES, *by law*.

907. Q. In point of fact, when you copied within the three months, were you aware that you were copying?—A. Yes, I have been aware when I have copied.

908. Q. When you did so knowingly copy, did you append your name at the end of each piece, with the date upon it, and in fact go through the whole form of the publication?—A. Yes; we published twice a year. This year I published on the Queen's marriage, the 10th of February; I say,—*"John B——, Calico Printer, published as the Act directs, 10th February, 1840."* Now when I do that, I do it upon every piece; if I have patterns three years old I put it upon them, and I put it upon every one.

909. Q. You have stated that you publish all your patterns, and that you print nothing but what you publish, by appending your name to it, and the date, and going through all the forms which constitute the act of publication; and you do that equally with respect

to those you copy as with the others?—Yes, with all.

910. Q. Do you think you interfere with the interests of those whose patterns you copy?—A. They would say so.

911. Q. Do not you think that persons who are protected by law for three months, when they have produced an original pattern, are to be considered the best judges of their own interests?—A. They should be, but sometimes they are not.

804. Q. Then the moment a pattern is produced, no matter at what cost, or how elaborate, it should be instantly thrown down to be copied by any party that thought he could make money by so doing?—A. As we now stand in the print trade, I do not think there is any law that can protect patterns, *neither do I wish to have any law.*

914. Q. When they told you that you had copied their patterns, and therefore interfered with their interests, and they had this law to protect them, why did they not proceed against you?—A. They thought I would FIGHT THEM, *and that was all.*

The second witness alluded to his having been eighteen years a calico printer, to his

being an alderman of the town of Manchester, and a magistrate of Lancashire. The following are extracts of his evidence :

3656. *Q.* Do you copy patterns?—*A.* No further than as every man is a copier, by taking the ideas which various patterns present to his mind, and endeavouring to adapt them anew, to constitute what is termed a new pattern, but which I contend, nevertheless, is not an original pattern. *Violations of the law of copyright I endeavour studiously to avoid*; and my invariable instructions to our pattern designers are, to copy no man's patterns, but to improve upon other men's ideas.

In a subsequent part of this magistrate's examination the following contradictory information was elicited :—

4284. *Q.* Did you, in point of fact, after ordering certain goods from Mr. Henry, direct another printer to copy those very goods?—*A.* Yes.

4285. *Q.* And that you got those patterns copied at an inferior price?—*A.* Yes.

4301. *Q.* Within the last few years you copied a pattern of Mr. Edmund Potter's, of Manchester?—*A.* Yes.

4302. *Q.* A correspondence took place between you on that occasion?—*A.* Yes.

4303. *Q.* Do you remember that Mr. Edmund Potter stated to you that a loss of 250*l.* had occurred to him in consequence of the copying of those patterns?—*A.* I don't remember it; he might have stated it.

4304. *Q.* Do you conceive in that case it would be an advantage to Mr. Potter to be so copied?—*A.* Certainly not.

4338. *Q.* Is it not a serious inconvenience to a printer who, before production, has made an accurate calculation as to the price at which he can afford to supply his customers, to have this price broken down by the forcible intrusion of a copy into the market; is it not a serious inconvenience to the printer to be so treated, no matter what the law allows?—*A.* It is an inconvenience.

4339. *Q.* Is it not a serious inconvenience and a permanent injury to a man's business to be compelled to lower his price on one pirated article, and to sustain them on others?—*A.* It is an injury; but I think there are also injuries inflicted by the present law of copyright upon the trade generally by its nature.

4340. *Q.* Must it not be an injury to him, inasmuch as it destroys the confidence of his customers in him, if, after having made one issue of a pattern of goods at one price, to hear of a re-issue of the same pattern at a reduced price?—*A.* It is an inconvenience.

4341. *Q.* Is it not an injury?—*A.* Yes, I think it would injure him.

4342. *Q.* Does your answer to that question refer to isolated cases, or to the general interests of the trade?—*A.* Decidedly to isolated cases.

4343. *Q.* State a case in which it would not be an injury?—*A.* I do not wish to make any statement of that kind in answer to the question.

4344. *Q.* Must it not have a most serious effect on a small capitalist, who, on having one of his patterns pirated, cannot afford to discontinue the produce of it, to be compelled to re-produce it at an inferior price?—*A.* It would be an inconvenience for the time, but he would be driven forward to produce other new patterns.

4345. *Q.* Is it not the course that where a good pattern belonging to an original proprietor is pirated, that he ceases to print it,



and turns to produce other new patterns with which to replace his lost sale?—*A.* He would replace them, no doubt.

4346. *Q.* In the meantime, must he not rely for carrying on his business on his other less successful patterns, which have not been pirated?—*A.* He ought to have patterns constantly coming round in succession.

4347. *Q.* In the meantime, while the sale of the existing pattern is suspended, and that with which he is to replace it has not commenced, must he not rely on the sale of his inferior patterns which have not been pirated?—*A.* Yes.

3902. *Q.* Do you think that an action in a court of law is a proper mode of redress for infraction of Copyright?—*A.* I do not ;\* I think that a dispute might be satisfactorily settled in a much cheaper and quicker form.

3903. *Q.* What mode of redress would you suggest?—*A.* I do not know that I am prepared to suggest any particular mode ; I

\* This magistrate thought an action in a court of law was not a proper mode of redress for infraction of Copyright, but he thought redress might be left to *magistrates* in petty sessions !



should think it might be left to magistrates in Petty Sessions, or it might be left to the County Court, or done in any way by which a cheap and expeditious mode could be had of settling the matter ; that would be satisfactory to me, as an individual ; but it is a question, I think, the details of which would involve considerable inquiry ; and I am not prepared to say that I have sufficiently considered the subject to give any decided opinion as to what tribunal would be the best to which to refer those matters.

The third witness, a seller of calicoes in Manchester, and a magistrate of that borough, in reference to additional protection, gave the following evidence :—

5310. *Q.* Then you think it (extension of protection) would be serviceable to the printers as regards their individual interests, for the present at least, and not inconsistent with equity and justice ? — *A.* I have stated that it would be to the interest of individuals, for the present.

5311. *Q.* And not inconsistent with equity and justice ? — *A.* *I should never go into the equity or justice of the thing. I say the policy of the thing is the only consi-*

*deration we have to enter into.* It is not a fair thing that one man should take another man's property ; but a quantity of these things are of so trifling a nature, that they are not worthy of protection.

Mr. T. Clarkson, after stating to the Committee that his house had been applied to by a very respectable neighbour, not in the trade, for some of their newest and choicest designs, answered as follows :—

Q. For his own use?—A. As we expected, for his own use, not having any suspicion ; I selected a great number of patterns, and sent them to his house for the purpose of making a choice ; in the course of a very short time, (I think a day or two,) an order came for something like twelve or fourteen pieces ; perhaps five or six patterns, two pieces of a pattern.

Q. For his private use?—A. As I expected. Shortly afterwards I heard that those patterns had been sent down to Manchester to be copied, which, of course, surprised me very much ; and I applied for payment for the goods, and stated what I had heard ; the only answer that I got was, that there was the money for the account,

and there was an end of the transaction. I think within two months the whole of those patterns came out into the London market ; some of them were patterns that we had a very large stock of, and we had for years afterwards ; we sustained a considerable loss ; they came out, and were sold in great quantities in common work in general, and inundated the whole trade.

Mr. C. Warwick, after giving evidence of copies taken of his designs, was asked :—

2357. *Q.* Did you find that any other house followed the example of Mr. M——'s house, and so aggravated the necessity for protection?—*A.* We did, after that, decidedly, *so as entirely to paralyse our trade.*

The following are extracts of Mr. Stirling's evidence :—

3481. *Q.* Then you consider that you are in a much worse state than you were? — *A.* Our business is almost at a stand.

3482. *Q.* That you attribute to copying? — *A.* Yes.

Comments on the foregoing extracts of evidence would be superfluous, and to exhibit the difference of feeling in England and France on the subject of copying *per fas et*

*nefas*, it is only necessary to advert to a prosecution instituted by the house of Gros, Odier & Co. of Paris, against the Mayor and Deputy of Rouen, and his partners, for copying ;—a case which, on account of the high rank of the parties, excited an unusual degree of interest. The defendants were convicted, and damages were awarded against *each*, of 2000 francs, besides the expences of the suit. The goods were seized in the warehouses of Paris, and were forfeited to the plaintiffs. One hundred printed copies of the judgment of the Court were posted in the manufacturing towns of the kingdom, and the insertion of a report of the case was ordered to be made in two of the public journals, at the choice of the plaintiffs.

Designs in France enjoy a longer protection than any other intellectual property, whilst in England they had and have the shortest. In illustration of these facts, Mr. Thomson prepared the following Tables :

**No. I.—INTELLECTUAL PROPERTY**  
**PROTECTED BY LAW IN ENGLAND, WITH THE TERM OF ITS DURATION.**

|                             |                                                                                                                                                                                                                                                                      |  |           |                                                             |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------|-------------------------------------------------------------|
| <b>LITERARY PROPERTY ..</b> | <b>General Literature.*</b>                                                                                                                                                                                                                                          |  |           | { And for the life of the Author if he survive that period. |
|                             | The Drama, both as regards publication and representation†                                                                                                                                                                                                           |  | 28 years  |                                                             |
| <b>MUSICAL COMPOSITIONS</b> | Oratorios, Concert Pieces, &c.                                                                                                                                                                                                                                       |  | 28 years  | Ditto.                                                      |
|                             | Songs,—Cherry Ripe, &c.                                                                                                                                                                                                                                              |  |           |                                                             |
|                             | Waltzes, Quadrilles, &c.                                                                                                                                                                                                                                             |  |           |                                                             |
| <b>FINE ARTS.....</b>       | Designs, Prints, Engravings—Maps, Charts, Plans .....                                                                                                                                                                                                                |  | 28 years  | Ditto.                                                      |
|                             | Sculpture—Models, Casts .....                                                                                                                                                                                                                                        |  | 14 years  | { And if the Author survive, 14 years longer.               |
| <b>INDUSTRIAL ARTS ....</b> | Designs to be cast, modelled, or embossed, or chased, or engraved, being of any metal, or mixed metal.....                                                                                                                                                           |  | 3 years   |                                                             |
|                             | Designs ditto, on any other substance .....                                                                                                                                                                                                                          |  | 1 year    |                                                             |
|                             | Designs to be worked into, or printed on certain textile fabrics, and also designs for the shape or configuration of any article, &c. Ribbons, Spitalfields silks, Paisley shawls, goods figured in the loom, or embroidered, ladies' habit-shirts, satin shoes..... |  | 1 year    |                                                             |
|                             | Designs printed upon linen, cotton, calico, and muslin.....                                                                                                                                                                                                          |  | 3 months. |                                                             |
|                             | Designs printed on silk, wool, or hair, or any mixture of cotton, linen, wool, silk, or hair, Chalis, Mousseline-de-laine .....                                                                                                                                      |  | 3 months. |                                                             |

\* By 5 and 6 Vic. c. 45 (July, 1842) Copyright in books endures for the life of the author, and seven years after his death. If the seven years shall expire before the end of forty-two years from the first publication, the Copyright will endure for forty-two years. Publishers and Proprietors of Essays, and articles forming parts of periodical works, have twenty-eight years Copyright in such articles, and after the twenty-eight years the right of publishing the Essays in a separate form, reverts to the author for the remainder of the term of forty-two years.

† The provisions of 3 and 4 Wm. IV. c. 15, extended also the Copyright in Dramatic Pieces and Musical Compositions, and the 5 and 6 Vict. c. 45, further extended their Copyright.

No. II.—INTELLECTUAL PROPERTY,  
PROTECTED BY LAW IN FRANCE, WITH THE TERM OF ITS DURATION.

|                       |                                                                                                                                                                                                                                        |                                    |                                                                                                   |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|---------------------------------------------------------------------------------------------------|
| LITERARY PROPERTY ..  | General Literature .....                                                                                                                                                                                                               | 28 years                           | { And life of the Author<br>and his Wife.<br>Twenty years after<br>their decease to the<br>Heirs. |
| MUSICAL COMPOSITION.. | <i>Published Drama</i> ..... }                                                                                                                                                                                                         | 28 years                           | Twenty years to the Heirs                                                                         |
| FINE ART .....        | Operas, Concert Pieces, Songs, &c. ... }                                                                                                                                                                                               | 28 years                           | { But only 5 years after<br>decease to the Heirs.                                                 |
| INDUSTRIAL ART .....  | (Music, and Drama, performance.) .. .. . }                                                                                                                                                                                             | Life                               | { Ten years after decease<br>to Heirs.                                                            |
|                       | Sculpture, Painting, Designs, Engravings;<br>also Maps, Charts, Plans .....                                                                                                                                                            | Life                               | Ditto.                                                                                            |
|                       | Designs for Figures—Castings, or Articles<br>punched or worked in Metal, Alabaster,<br>Wood, or other material .....                                                                                                                   |                                    |                                                                                                   |
|                       | Designs de Fabrique. Designs reproduced<br>by Mechanical, not Artistical Means—Ar-<br>ticles printed or woven, Lyons Silks, Printed<br>Muslins, Chalis, Mousseline-de-Laine,<br>Cachemere Shawls, printed or woven, Paper,<br>&c. .... | 1, 2, 5<br>years, or<br>Perpetuity | { At the will of the Ma-<br>nufacturer.                                                           |

## CHAPTER III.

Mr. Dyce's Report on the Schools of Design in Foreign Countries—Protection not adverted to by Mr. Dyce—Report of the House of Commons' Select Committee, 1836, on best means of extending knowledge of the arts and principles of Design among the people, examined—Efficient protection indispensable.

MR. DYCE, of the Government School of Design, Somerset House, in the valuable Report of his journey of inquiry into the state of the Schools of Design in Prussia, Bavaria, and France (printed by order of the House of Commons, 3d March, 1840,) although he might have confined his inquiries to the internal organization of the schools which he was directed to visit, obtained much useful and collateral information. It was necessary, he found, to view the subject of his inquiry **COMMERCIALLY**, as well as *artistically*; to consider the manufacturing and commercial conditions of the countries in

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which the schools were located, as well as the schools; and this not only to show the applicability of the means of instruction to the exigency of the case, but to examine the influence of Schools of Art, and whether schools by themselves conferred the great and palpable benefits on manufacture ascribed to them. Imperfectly conversant, as Mr. Dyce considered himself to be with the subject, he said there appeared some *anomalous circumstances in the state and prosperity of particular branches of continental industry, which it was very difficult to reconcile with the supposed influence of schools*; and to him it appeared evident, that schools, as agents, could only come into operation, under favourable circumstances.

Mr. Dyce referred particularly to the silk manufacture, and expressed regret that it was not in his power to afford details in other branches of industry, because he was thoroughly persuaded that it was chiefly through the medium of intelligence, taste, and tact on the part of manufacturers, that schools, in the education of designers, could effect any decided benefit. The manufacturers of this country, to whom Mr. Dyce



appealed as the agents for improving the Art of Design, have perhaps substantial ground for complaint at the manner in which they are dealt with by him; for he gives credit to the manufacturers of France on account of the respect and authority with which they invest designers, and censures the British manufacturer for taking upon himself, detrimentally to the interests of commerce, the onus of finding the pattern; a responsibility, he states, which from education, occupation, and perhaps powers of judgment in matters of taste, it is impossible the manufacturer should be competent to discharge.

Mr. Dyce avowed that schools could only come into operation under *favourable circumstances*, but he did not investigate the cause of the British manufacturer not extending to the artist the respect and the deference due to industrial artists. He stated the mechanical business of copying, altering, and dove-tailing patterns is not lucrative, and that it does not hold out a prospect of reputation or applause; so that youths of ability having any prospect of success will not submit to the thankless drudgery. If this be not true, he asks, How

comes it that we have no instances of men of high artistical powers devoting themselves to Designs for industry? Much as his report is entitled to respect, it is very far from being satisfactory on this subject. His answer to the enquiry he institutes is, "Because not only is the estimation in which they are held, and deference which is paid to their opinion, always proportioned to their skill and abilities, but the remuneration is such as to ensure them a respectable position in society."

Deference, however, to the artist's opinion, and his being ensured a respectable position in society, it is to be contended, are only one link in the chain of causes, and it is not the one which ought to be relied on; indeed, it may be argued as being rather an effect produced by another cause—the true source and great spring of French superiority. French manufacturers would never have accorded to their designers all that is attributed to them, had not the law enabled them to profit by cultivating artists' talents. Is it to be apprehended, that without the French manufacturer being assured of his power to maintain a right to that which he produced,

he would foster the artist's talents? The very basis of the French deference to talent, and that country's unrivalled position in *taste*, is *efficient protection*; and it certainly is singular, that this fundamental element, and primary cause of superiority, has been so completely overlooked. In the concluding page of Mr. Dyce's Report, he writes:—

“I do not hesitate to state, as the conviction forced upon me by the inquiries I have made, that in those opportunities, embracing the innumerable elementary schools, public exhibitions, and other gratuitous means of fostering taste, the *secret of the influence* of the Schools of Design, properly so called, is to be found, and not in the completeness of their system of tuition; and that if we wish the Government School to prosper, the ground must thus be broken for it, otherwise it cannot, in the nature of things, take root, or bring forth any fruit.”

Not one word about enjoyment of the fruit. But in this commercial country manufacturers will not produce the fruit unless they are assured they shall be at liberty to gather it.

In 1836, an elaborate Report was made

by the Select Committee of the House of Commons, appointed in that and the preceding Sessions, to inquire into the best means of extending a knowledge of the *Arts* and of the *Principles of Design* among the people (especially the manufacturing population), and also to inquire into the constitution, management, and effects of institutions connected with the arts.

This Report, made as it was by scientific men, excited an unusual degree of interest ; and it is much to be regretted, that although the members of the Committee inferred, with regret, that the arts, in their connexion between design and manufactures, had received but little encouragement in this country, greater importance was not attached to the paramount question of *Copyright*. The document contains matter of such exceeding interest, that it is proposed to make it the subject of particular reference.

The first topic alluded to was the want of instruction in design among the industrious population, and the absence of public galleries, devoted to the arts, and open gratuitously to the people.

To the Committee it appeared, that the

great advantage which foreign manufacturing artists possess over those of Great Britain, consisted in the greater extension of art throughout the mass of society. Art was stated to be comparatively dear in England, whilst in France it was cheap because generally diffused. But the Committee, anxious to ascertain what had led to French superiority, should have proceeded to educe the causes of general diffusion; and had they grappled boldly and vigorously with what they called the "*delicate and difficult question of Copyright*," they might have rendered most important services by demonstrating that *protection* would produce confidence, that confidence would lead to the employment of more artists, and that the works of a greater number of artists would necessarily produce a greater diffusion of works of art. In the one country, art, doubtless, is cheapened by the confidence which every artist possesses that he shall reap the harvest of his exertions; and in the other, there being no security of property in design, it cannot be expected that art should be of a high class, or at a moderate cost.

The French, contrary to the course which

it has been shown by the opponents of Copyright would pursue, do go into the *justice and equity of the thing*,\* and, as a just consequence and reward of adopting honesty as their policy, have attained a superiority and celebrity in all works of taste, unrivalled in modern times.

The zeal of the French, in the prosecution of the shawl trade, was particularly adverted to in the Report, and M. Couder was mentioned as having established a School for Shawl Designs at Paris. Mr. Holdway did the same in this country, but dread of the pirate and copyist discouraged purchasers of Designs; his school was unsuccessful, and he died a broken-hearted and a ruined artist.

Much importance was attributed to the French Schools of Design,† superintended by Government, and the extreme accessibility of museums, libraries, and exhibitions, was justly remarked on, as having tended to the diffusion of a love of Art as well as of Literature among the poorer classes of the

\* Vide Question 5311, and the Manchester magistrate's Answer, declining to go into the justice and equity of the thing.

† The Report says there were eighty.

French population; but the love of art is not the leading incentive—expectation and confidence of remuneration are the great and chief inducements to cultivate the Art of Design, and the unqualified assertion of the Committee, that “*In nothing* have foreign countries possessed a greater advantage over Great Britain than in their numerous public galleries devoted to the arts,” should not be received without an exception of the much greater advantage of *efficient protection*.

Among the advantages possessed by the manufacturing artists of foreign countries, were enumerated books on art published by the Government for the instruction of their workmen, and the works issued by M. Beuth, Director of the Gewerb Institute at Berlin, were particularly mentioned.\* The Com-

\* Mr. Dyce, in p. 4. of his Report on foreign Schools of Design, writes—“It is difficult, by a single expression, to convey an accurate notion of the character of this establishment. Being intended for the general advancement of manufactures, its studies have reference to all the branches of science or art which any way conduce to that purpose. It thus resembles more our ‘Schools of Art,’ or ‘Mechanics’ Institutions, than an academy of ornamental Designs; and so far from being, as it has generally been represented in this country, a perfect model of a School of

mittee also noticed with regret the neglect of any general instruction in the history of art at our universities and public schools—an omission noticed long before by Mr. Burke.

To the most important branch of the enquiry—COPYRIGHT, and which, so long as it was disregarded, all other schemes for improving the art of Design proved unavailing, the Committee did not appear to attach that deep and primary interest which the subject should have commanded ; not insensible, however, of the claims of Copyright to the serious attention of the Government, they thus adverted to the subject.

“ *The difficult and delicate question of Copyright* has already engaged the attention of the House, and numerous complaints of want of protection for their Designs have been laid before the Committee by artists and manufacturers. Mr. Smith, an eminent manufacturer of Sheffield, states, that the piracy of his Designs will compel him altogether to abandon designing as connected with

Design, it is not in fact a School of Design at all, if we use the term in its ordinary acceptation.”



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his trade. A similar or corroborative statement is made by architectural sculptors, modellers, manufacturing artists, and artists generally. Mr. Martin has been seriously injured by the piracy of his works ; and Mr. Papworth attributes to the want of protection for inventions the absence of original matter in tablets, vases, and foliages, of which in England we possess few specimens, and perhaps none worthy of observation. It is well known that a short period of Copyright is extended to printed cotton patterns. A doubtful protection has also been afforded to the arts by the statutes 38 Geo. III. c. 71, and 54 Geo. III. c. 56. The Copyright given by these statutes extends to metallic figures of men and animals, to figures combined of the two, and to what is somewhat loosely styled, "matter of invention in sculpture !" Metallic foliages, arabesques, vases, candelabra, and similar works, are unprotected by them. Whatever be the legal latitude of these Acts, the expensiveness of a remedy through the courts of law or equity is a virtual bar to invention, and almost affords impunity to piracy in art.

“The most obvious principle of any measure enacted for the protection of invention appears to be the constitution of a cheap and accessible tribunal. The French have long possessed a prompt and economical Court of Judgment for cases of this kind. The constitution of the Conseil des Prud’hommes, prevalent in the manufacturing districts of France, is a subject of interesting development in the evidence of Dr. Bowring. These local tribunals form a kind of Jury, or board of arbitration, composed of master manufacturers and workmen, empowered to decide on priority of invention in Design, as well as on many other subjects connected with manufactures.

“In addition to cheapness, the greatest promptitude of decision is another obvious element in the constitution of such a tribunal. For this and for other reasons, a system of registration appears to be indispensable.

“Another element in the consideration of this subject is the varying *duration of protection* to be extended to different inventions in manufactures. The varying periods of

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protection form a question of minute and exact detail, fit for separate investigation, and dependent on evidence too specific to be comprehended in the more general inquiry undertaken by the Committee."

"The Committee consider the elaboration of any comprehensive measure for the protection of Designs in manufactures to be well worthy of the serious attention of the Government."

From what has been stated, the real cause to which the enviable superiority of France in the taste of her designs is attributable, must be evident, and it may fairly be asked, in reference to the various means of her success adverted to in the Report on Arts and Manufactures, whether, if France, possessing all her other advantages, had not protected inventors and designers against attacks made upon their property, that country would have had any chance of attaining her present proud position in the realm of taste? Unhesitatingly may it be answered in the notable words of the Arrêt de Conseil (1787) that the emulation which animated the manufacturers and designers would have been

destroyed had they not been assured of gathering the rewards of their works. All their books, galleries, exhibitions, and Schools of Design,—admirable as auxiliaries,—would have been comparatively valueless had they not co-existed with *protection*.

## CHAPTER IV.

Example set by France in cultivating taste should be followed by Britain—Advances being made in manufactures by foreign countries, an additional reason for improving British taste—Leading arguments of opponents to extension of protection stated and remarked on—Expediency of opening new markets and improving Eastern commerce.

KNOWLEDGE in such matters as are the subject of our present consideration must be gained by one or more of three means—accident, experiment, or experience. Our neighbours, upwards of a century ago, hit upon Copyright for encouraging their Designs as applied to manufactures: they tried the experiment, and benefiting thereby, passed stringent laws for enforcing the right of proprietors and punishing offenders. Of the experience thus afforded to us, ought not Britain, the greatest manufacturing and commercial nation in the world, to avail itself? Can any of the advantages possessed by this

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country over all others in its capital, machinery, facilities of production, rapidity of transport, command of markets, and unsurpassed industry and enterprize, act otherwise than as agents in assisting us to compete with other countries in the excellence and refinement of taste, provided due encouragement and protection be given to the exercise of that faculty of the mind? No! reason will declare that just in proportion to our advantages being great, our progression in taste will be certain and rapid from the moment that a feeling of security in the property in Designs is acquired by the manufacturers and inventors.

Other nations are doubtless making advances in their manufactures. All European manufacturing countries are improving in their various processes, and a knowledge of this fact makes it the more incumbent on this country with the undoubted means of selling at lower prices to cultivate superiority of taste, and thereby enable it to compete with France in foreign markets, where our manufacturers know too well, to their cost, that the French productions are sought with avidity on account of their superiority

of design and manufacture, whilst the British goods are rejected from their deficiency of elegance, and from a want of confidence engendered by the copyists' and pirates' systems of applying spurious and fugitive colours to fabrics of inferior qualities,\* for the purpose of underselling the original inventors.

The opponents of Copyright sought to perpetuate this state of affairs, and it is therefore proposed to remark on some of their leading arguments, which may be considered as consisting of—

1. Difficulty of declaring any Design to be original, and deciding what constitutes a copy.

2. Increase of prices from extension of protection.

3. Increase of litigation.

4. Loss which the calico-printing trade will sustain from being prevented seizing on and immediately copying new and original designs.

5. Fear of injury from foreigners copying British new and original designs, whilst the copyists in England would be restricted.

\* Vide page 14, Q. 832.

6. Injury from general foreign competition.

7. Apprehension of a diminished foreign trade.

1. DIFFICULTY of declaring any Design to be original, and deciding what constitutes a copy.

The extension of protection will not create in this respect any new cause of difficulty, for the law, as it has existed since 1787, has acknowledged the possibility of new and original Designs being produced: the Act of that year gave to the proprietors of new and original Designs a two months' Copyright. Mr. Brooks, who stated before the Committee that his people were "all at full work in ideas," it is true, denied that there were any original patterns, but the denial he subsequently qualified by admitting that he had known two original patterns in thirty years. The originality of a Design was shewn to consist in the conception, combination, and arrangement, into new forms of objects, and the possibility of producing new and original Designs from the ideas of others, was ably illustrated by Mr. Applegarth, who contended that it was the application and use made of



ideas which gave the claim to Copyright. To the author, the word *Design* is pregnant with the idea of a contrivance—a disposition of parts, and implies a something new and original. No case has been known in which two artists working apart have produced Designs which could be confounded; the same instructions, excepting as regards simple elementary forms alone, with dimensions, might be given to a thousand draughtsmen, and they would each produce a different pattern.

To a person considering the subject for the first time, it might appear probable that difficulties would be experienced in deciding whether one pattern be a copy of another or not, but practically no such difficulty has occurred, nor is any likely to exist. Which of two patterns was the original, must be a matter of evidence, but in all cases where the similitude is so decided as to give rise to a question of piracy or copying, the approach to identity has not been the result of accident, it has always happened after the original *has been seen*, and there has been an intention to copy, or to make only what the courts have defined, and well understand, a fraudulent imitation, or colorable variation.

Upon the *materials* of Design, Copyright has laid no restrictions.

Mr. Edmund Potter, of Manchester, in writing on the alleged difficulty of deciding on originality, has stated—

“ Ten houses supporting extension of Copyright, have produced in the last ten years not less than 30,000 Designs, not one of them copies—all of them originals in the commercial and common sense application of the term. Out of the 30,000 Designs, no possible dispute or difficulty could have arisen, had there been even a twelvemonths' Copyright. Each house could select its own, and establish a fair and legitimate proof of authorship. During the whole of that time not one of these houses interfered with the Designs of others, further than by fair competition occasional similarity might arise, but *no suspicion* of copying.”

The houses who do produce original patterns have none of them entertained fear that there will be a difficulty in deciding on their original Designs—it is only the copyists, the pirates,—the class of printers who do not produce originals, that are alarmed lest the

proprietors of Designs should not be able to identify their property and prove originality.

2. INCREASE OF PRICES from extension of Copyright.

The basis of this objection was a presumption that Copyright was a strict and absolute MONOPOLY, in its offensive and injurious sense, and such it would be if protection compelled the public to apply for any particular article suited to a certain purpose, to one individual, at such a price as he, without the fear of competition, might fix; but this description of protection the Act will not give. It will protect only patterns, not *styles*, which Mr. Thomson explains to be a number of patterns all agreeing in some one general character, but differing in the individual forms, or in the detail. He says, "STYLES derive their general character either from *form or colouring*. FORM may be varied sufficiently from the original type to avoid or evade Copyright without departing from the style.

"COLOURING, as a character of style or pattern can never be made the subject of Copyright. Copyright protects individual forms or patterns only, and not styles.

“Thus Copyright in patterns—the bug-bear of piracy, and the aversion of political economists, through erroneous and imperfect knowledge of the facts, leaves free and unfettered the whole domain of taste and fancy in patterns for printing.”

A wide range therefore for fair competition is here left open, and an impossibility created for any person to establish monopoly prices, as every attempt to obtain excessive profits over goods of a similar description, suited to garments, furnitures, or other articles of equal quality, character, and execution, would be speedily met, and easily overcome by a competition in *style* alone. When foreign orders are received, merchants aim at getting the precise patterns if possible, but if not, they take the nearest substitute to them; and it has been quite sufficient when identical patterns have been ordered, to send the same style of goods, but different in design—the nearest obtainable on the cloth required. This was established by the evidence of Mr. R. Barbour, an extensive commission merchant in Manchester.

8408. *Q.* Are the Committee to understand, if the order is made for the same quality in colour and cloth, that it is necessary to send the identical pattern? — *A.* We should always aim at getting the precise patterns, if possible ; but if not, we would take the nearest substitute to them.

8399. *Q.* In the course of your business in the markets you have mentioned in the West Indies, British America, and South America, do you find, that when an order comes for a set of patterns which have taken successfully in that market, that the parties are imperative in requiring that precisely the same patterns should be sent back, or that a style, combining the same idea with the same colours, and the same general arrangement, will suit equally well, or better, provided that equal quality in cloth and colours are required? — *A.* We receive orders in both ways, both for the same identical patterns, and in other cases, for a similar style of patterns on a low cloth. In cases where we have had the identical patterns ordered, we have always considered it quite sufficient to send the same style of goods, but different in

design,—the nearest we could come to them on the cloth required.

That no increase of price will in any case take place, it would be absurd to argue; it is to be hoped that there will be an increase, and that the artists will be better paid: producers with protection will incur more expense in reference to their Designs, but they will necessarily have to regulate their price from the demand made; and if one producer require an exorbitant price, a competitor will be sure to afford him useful instruction on the unreasonableness of his expectations. No sound reason can be urged for a design not being allowed to acquire value in proportion to its excellence. Printers, with whom cheapness of production is the only consideration, will be at liberty to produce cheaply all patterns which are not during a few months private property.

### 3. INCREASE OF LITIGATION.

Under the Copyright law as it existed, there was never known any case of oppression, nor were legal proceedings ever resorted to from vindictive feelings. Two cases only are reported in the books under

the old Acts; one was in the Court of Chancery, the other in the Court of King's Bench;\* but this absence of forensic employment may certainly be attributed in some

\* *Sherriff v. Coates*, 1 Russell and Mylne's Reports, p. 159. This case shewed that equitable jurisdiction upon the 34th Geo. 3. c. 23. was not excluded by the special remedy thereby provided. Independent of that remedy the statute vested in the inventor a right of property which equity would protect by injunction. The evidence as to title was not in this case conclusive, the injunction was therefore dissolved, and an issue was directed, the defendants keeping an account. The Court, it was shewn, would itself compare and decide upon alleged piracies by inspection, where that could be easily and safely done.

*Macmurdo* and another against *Smith* and others, 7 Term Reports, p. 519. In this case it was moved to arrest the judgment, because there was no averment in the declaration that the day of publishing the pattern was printed at each end of the piece, which, together with the name of the proprietor, was required by the statute. Lord Kenyon presided, and held that the omission of the averment was aided by the verdict found, it being stated in the declaration that the defendants pirated the pattern within the three months from the day of publication, and while the plaintiffs were entitled to have the sole right of printing the same.

Under 2 Vic. c. 17. one conviction was obtained before two magistrates for pirating a protected fender design at Rotherham. One other case respecting a carpet design was brought before magistrates in London, but went off in consequence of an informal service of the summons.

degree to the worthlessness of the duration of protection, and the imperfection of the statutes. An increased value being obtained in the Copyright, it is not unreasonable to suppose that persons will be disposed to protect their property, and seek redress for damages inflicted ; but great good may be expected to result from piracy being regarded in a different moral view to that in which it used to be held. Public opinion has already done much to stigmatize the offence, and after a few legal convictions have taken place, it is not improbable that the ardour of the most determined pirate will be considerably damped by the unenviable notoriety which his mean pursuits will be calculated to acquire for him.

The case of *Sherriff v. Coates*, in 1830, led to heavy expences ; but it was not without a beneficial effect, for its proceedings assured parties that they were not remediless in cases which it was worth their while to take into the Court of Chancery. Injunctions have been since obtained, and pirates have been made to hand over the profits of their unlawful dealings, besides being



deprived of the power to continue in the market their stock of goods piratically printed.

A remedy is given under the new Act for enforcing penalties before two magistrates ; and to diminish the uncertainty and expense to which proprietors were subject, there are introduced into the Act forms in which the proceedings may be taken and the penalties be adjudged. In furtherance, too, of a desire to discourage litigious disputes, a clause was introduced on the third reading of the bill, enabling Justices to award payment of costs to a party improperly summoned before them.

The promoters of the bill were not convinced of the expediency of constituting, under 2 Vic. c. 17, two magistrates as a tribunal for adjudicating on offences under the Act, and the provision giving them jurisdiction must yet be regarded as an experiment for obtaining an expeditious and economical redress. The incumbering legal proceedings with heavy expences may be made to amount to a denial of justice ; but as regards the process of injunction, in reference to the protection of Designs, expe-

rience has proved that it has been attended with the double advantage of deterring guilty parties defending a case which they knew to be bad, and preventing plaintiffs taking a doubtful case into Court. The remedies intended under the old Acts are not discontinued; those before the magistrates are, under the new Act, rendered less uncertain.

4. Loss which the calico-printing trade will sustain from being prevented seizing on and immediately copying new and original designs.

That the portion of the trade carried on by copyists is neither necessary nor lucrative in comparison with that which produces original Designs, was satisfactorily established by the fact, that persons engaged in copying, found it expedient to discontinue the practice, and highly advantageous to have recourse to original production. A leading opponent of copyright stated he had abstained from copying for the last eight or ten years, and that he had altered his practice on the grounds that he thought it his interest to do so, as he made more money by the production of originality. Ireland for many

years had no law of Copyright at all, the whole calico-printing trade of that country was without protection. Copying was the staple trade of the country, but Mr. Henry's house, as shown by Mr. Stirling, found it their interest, even before the introduction of a Copyright law into Ireland, to have recourse altogether to the production of original designs. But if copying be absolutely necessary for carrying on the great bulk of the calico printing trade of this country, ample scope will be left for the mere copyist, as he will be permitted to avail himself of all stock patterns, all foreign designs, not protected, and nine months expired, he will be entitled to avail himself of the choice productions of the high class printers, the demand for which may long survive protection.

5. FEAR of injury from foreigners copying British new and original Designs, whilst the copyists in England will be restricted.

This objection, to be entitled to any weight, must be founded on an argument that other countries having the advantage of copying the productions of France, which in

point of excellence are admitted to be superior to those of England, will, in preference, copy the inferior designs of this country, merely because they have a limited protection in England of nine months ; and that, too, notwithstanding the indisputable fact that no country can compete with England in the mere *element of cheapness of production*. The English copyists will retain full power to inundate all neutral markets with copies of foreign designs of any age, and with copies of all home unprotected printed productions. Under the late law, the English copyist was restrained copying English protected patterns for three months ; the French could have copied them during the three months, but they did not find it their interest to do so ; can it, therefore, be probable that they will copy during the nine months, when the additional protection will increase the proprietor's means of producing at a lower cost ? New and original designs made by any foreigner, although registered, will not be protected unless the application of the Designs to the articles of manufacture take place in this country.

## 6. INJURY from foreign competition.

Upon the topic of foreign competition, the most likely to operate upon the minds of persons not conversant with the details of the most extensive, if not without exception the most important, trade in the country—*calico printing*, the opponents of Copyright displayed the most remarkable industry and ingenuity; and calculating, that if they excited the fears of our legislators, they should accomplish a rejection of the proposed measure, they scoured foreign countries for evidence, and certainly did submit statements to the Select Committee, which no less surprised than astonished all parties. As, however, is frequently the case, where attempts are made by the unscrupulous, the opponents proved too much, and the wholesale misrepresentation of facts, leading to the investigation of the comparative means of British and Foreign production, it became apparent, that no alarm need be entertained of foreign competition being aided by our cultivating taste, the only element of success in which this country is deficient. The competition from abroad is not what it was represented

to be ; but were the exaggerations submitted to the Committee all facts, they would in reality furnish even stronger reasons than we possess, for placing ourselves in a position to cope with foreign rivalry.

One of the witnesses examined before the Committee stated, that he had recently visited the Continent, for the express purpose of gaining information for the purposes of the Committee. He proceeded to Belgium and Prussia, and represented that he personally communicated with M. Voortman and M. Hemptinne ;\* that the consumption of coals at Ghent was with Wolf's engines, per horse power, considerably less than one-half of the consumption in England ; that the cost of labour † in Belgium was 10 per cent. less than England ; and that he spoke within bounds when he said, that the Belgian manufacturers had an advantage of upwards of 10 *per cent. over the English in cost of production*. Implicit reliance was not placed on these novel and startling assertions, made by the person who had gone abroad for the express purpose of procuring information ;

\* 8194.

† 8558.

and that the accuracy of the statements should be tested, Mr. Thomson applied direct to his friends, M. Voortman, M. de Hemptinne, M. de Smet, and others.

M. de Smet wrote, that he considered the statements as "perfidious and false;" that it was not true that the calico-printer in Belgium could produce prints 10 per cent. lower than the English printer; that, on the contrary, he reckoned the Belgian produced, according to kind, *from 20 to 25 per cent. higher*; and that too, without considering the unbleached cloth which was obtainable at a lower price in England; that, although several Belgian printers had made various attempts at exportation, it was impossible for them to compete in any market whatever with English manufacturers, and that the importation of English manufactures into Belgium, so far from diminishing, was on the increase.

M. Voortman declared that the Belgians were almost entirely shut out from all the markets in which they meet with English competition.

M. de Hemptinne wrote, that the Belgian

printers could not compete with the English, for their products were much dearer than in England ; that the English had almost excluded them from the markets of Holland, and all attempts at exportation to other countries had failed of success.

In Belgium there is a tariff depending on the weight of goods : on the largest portion of prints the protecting duty exceeds 25 per cent.!!

Mr. Thomson, in his notes on Calico-printing in Belgium, addressed to the Right Honourable H. Labouchere ; and Mr. Emerson Tennent, in his works on Belgium, and Copyright of Designs, have completely exposed the absurdity of alarm at Belgium competing with this country in calico-printing.

A witness was also examined before the Committee in reference to competition, from the United States. He stated he had been engaged in the States, enumerated the firms carrying on business, and gave it as his opinion that the Americans were likely to become formidable rivals to us in the course of a short time. He knew nothing of im-



portations\* of printed calicoes from England, but the protecting duty being, as he thought, about  $26\frac{1}{2}$  per cent., it did seem to him that the English had the advantage over the Americans to the extent of  $26\frac{1}{2}$  per cent.

Mr. Thomson has shewn that neither the Committee nor the witnesses themselves had any correct idea about the United States duties, which were considered to be simply 25 per cent. *ad valorem*. A great part of our trade with the United States in prints of the lowest description, he states to be annihilated by the duty and charges; but we still have a considerable trade with the States.

The following observations, in reference to the American duties, from the preface introducing Mr. Thomson's Notes, is too instructive to be omitted:—

“ Previous to 1834, the duty on printed calicoes was 25 per cent., not *ad valorem*, but on an arbitrary, fictitious, and assumed value of 35 cents per square yard, which

\* 6566. Q. At the present moment there is a very extensive importation of English printed calicoes into America, I believe?—A. I do not know as to the importation at present.

amounted, on a piece of ordinary Manchester print, suited to the United States, of 28 yards long and 24 inches wide, to one shilling per yard! On this the duty of 25 per cent. amounted to seven shillings, or about 100 per cent. on the great bulk of our former shipments to America!!! This is the competition so much talked of—this is the rivalry so much dreaded by the ill-informed and ill-intentioned advocates for piracy and community of property in Designs.”

“In 1834, Mr. Clay’s bill modified the tariff, and provided for its gradual reduction, in eight successive years, to 20 per cent., still retaining the arbitrary valuation. At the present moment it is 23 per cent., and in June 1842, reaches its lowest term of 20. The duty on unprinted calicoes is the same; but the valuation is taken at 30 cents the square yard, which makes a piece of grey printing cloth, worth now in Manchester seven shillings a piece, cost in New-York, for duty alone, five shillings, or 70 per cent., freight, insurance, and other charges not included, which nearly double the price.”

Mr. Tennent, in his visit to Prussia, in-

terested himself in obtaining correct information relative to the competing means of that country, and the answer he received from M. Stephan at Berlin to his general enquiry, Whether Prussia was likely to compete with England? embodies all that need be said upon the subject.

“ Your question will be resolved,” said M. Stephan, “ when fuel is as cheap here as in Lancashire,—when our manufacturing population shall be as long and as well trained, and, as it were, educated for manufacturing, as yours, and when consumption shall be considerable enough for extensive employment.”

Prussia and the League take a less quantity of British goods ; but it is stated, that notwithstanding duties and charges amounting to between 50 and 60 per cent., British goods do force their way into their interior markets.

France, perfectly assured of its utter inability to compete with Britain in cost of production, does not protect itself by any duty, but absolutely prohibits the importation of British printed calicoes ; and it is

beyond doubt, that in all neutral markets where taste is not an essential, the British undersell the French.

7. APPREHENSION of diminished Foreign Trade.

To establish a reasonable apprehension that the foreign trade of this country will be diminished in consequence of an extended protection, it should be shewn that the original producer either could not, or would not produce the goods within a reasonable period, at a fair remunerating price, or that he, being indisposed to furnish the goods, the substitution of a pattern of the same style, and instead of the identical design, would not be accepted. The command of machinery in this country is more than sufficient to enable a proprietor to supply any quantity that may be demanded; and the active competition which must continue, is sure to keep down exorbitant prices. But the day, it is hoped, is not distant when an enlightened policy will open to the British manufacturers markets of incalculably greater importance than the United States and all the European markets: the countless millions

of British subjects in India alone might be made the means of extending our commercial operations beyond the limits of imagination. Mr. E. Tennent has well merited the thanks of manufacturers by his zealous and persevering efforts to obtain protection of Designs, and to elevate the national taste ; but holding the appointment at the India Board which he does, he may confer still greater benefits upon the commercial classes, by unremittingly persevering to extend the markets for British produce. Our own subjects in India take not per head one-hundredth part of the manufactures which our late slaves consumed ; and in addition to India, our Eastern commerce is capable of an extension which no empire ever yet commanded.

Whatever disinclination was felt by many to legislate *on the difficult and delicate question of Copyright*, involving as it did, interests of enormous magnitude, a necessity for efficient protection, it is submitted, has been completely established. Reason and justice, throughout the three years' contest, have been with the promoters of the bill ;

and it may hereafter become a matter of astonishment, that in a question involving the continuance of a wrong, the parties who have profited by its existence, should have been able for so long a period to delay its removal, and impede the passing of this salutary statute.

The object of some of the opponents was avowedly to benefit themselves by an appropriation to their use of the produce of their neighbour's talent, capital, and enterprize: they wished to evade the cost and labour of invention. Between the two parties—*Fiat Justitia!*

## CHAPTER V.

Difference of Objects to be protected under the Patent Law  
and the Copyright of Designs' Act.

ON the introduction of the Copyright of Designs Act, 2 Vic. c. 17, very erroneous views were entertained of the intention of the statute, and of the objects to which it would afford protection ; and as confusion of ideas not unfrequently took place amongst the persons likely to avail themselves of the Act, it will be well to remark shortly on the subjects to which the law of patents applies, as well as that comprehended by the recent statute.

Prior to the reign of James I., the sovereigns of England exercised their prerogative of conferring exclusive grants to particular bodies and individuals to so great an extent, that the people suffered most severely from the burthens of odious monopolies. In Elizabeth's time the monopolies had become

so oppressive, that she was obliged to cancel several of the grants which she had made.

In 21st James, Parliament controlled the assumed power of the Crown by declaring generally that all monopolies, and all commissions, grants, charters, and letters patent, for the sole buying, selling, making, working, or using any thing within the realm, were contrary to law, and should be utterly void; and then followed a proviso, that the declaration should not extend to any letters patents and grants of privilege for fourteen years or under, thereafter to be made of the sole working or making of any manner of *new manufactures* within the realm to the *true and first inventor* of such manufactures, which others, at the time of making such letters patents and grants, should not use.

On this declaratory statute is based all the law on *patents for inventions*.

The Crown can only confer the privilege of making and selling some *article or thing*, and the grant can only be for a *new invention*; no person is to be restrained in what he had before, nor is any person to be prevented from following his lawful trade.



Into the grants of patents is introduced a condition, that the patent shall be void if the inventor do not, within a time specified, by an instrument under his hand and seal, particularly describe his invention, and in what manner it is to be performed, which instrument is required to be enrolled in the Court of Chancery.

The security thus ensured to the public, of benefiting by the invention is the equivalent or return for the limited monopoly.

The words "*new manufacture*" used in the statute have received a very liberal construction. Manufacture has not been defined with precision, and there does not appear to be any better classification of the objects, than that adopted by Mr. Godson in his very useful treatise on the Law of Patents. Mr. Godson shows that a new manufacture may be

1. *A substance*, or thing made.
2. *A machine*, or instrument.
3. *An improvement*, or addition.
4. *A combination*, or arrangement of things already known.
5. A principle, *method*, or process, carried into practice by tangible means.
6. A chemical discovery.

## 7. A foreign invention.

The Designs Copyright Act will give no protection whatever to *new manufactures*, any more than a patent would confer on the inventor of a new and original Design, the right to apply the same to any article of new manufacture or substance: the objects of the two laws are distinct; the patent law protects an invention of a *new manufacture*, the Copyright secures the *right of application of a new and original Design* to a new or an old manufacture or substance.

Mr. Carpmael, of the Repertory of Patent Inventions, Lincoln's Inn, has thus endeavoured to make the distinction clear:—

“In registering any new Design for a table-lamp, all which could be secured under such registration would be, some peculiarity of form in the stem or oil-vessel, or in the glass shade: no new mode of supplying oil to the wick, nor any new mode of raising the wick, nor any new apparatus for supplying air to support combustion, could become the subject matter of a registration. The simple configuration or contour of the lamp, or some particular part of the lamp, would be

the only subject for registration ; and any person might, without infringing the registration, make the same description of lamp, all parts acting mechanically in the same manner to produce the same end, so long as the outer configurations were not imitated. A patent, on the contrary, can scarcely ever be said to depend on shape ; and supposing a patent be taken for any improved construction of lamp—such, for instance, as an improved means of raising the oil from the stem or pillar of a table-lamp, the patent would be equally infringed whether the external figure or Design be retained or not, so long as the means of raising the oil are preserved.”

Copyright of Designs is for Designs applicable for pattern, shape, configuration, or ornament.

The foregoing observations are made with a knowledge that much may be added, and that it is possible cases of difficulty may occur in reference to articles which may be registered interfering in some respects with Copyright created by other Acts of Parliament ; but it is not the object of the author to discover or publish doubts in the existing laws.

## ANALYSIS OF THE ACT.

*Sec. 1.* Enacts that the Act shall come into operation on 1st Sept., 1842, and repeals the Calico Printing and Copyright of Designs Acts.

2. Continues Copyrights under the repealed Acts, and provides respecting the penalties and remedies.

3. Grants Copyright in new and original Designs, applicable to ornamenting any article of manufacture, or any substance, provided the same be applied within the United Kingdom. Classification of the different articles of manufacture, and the length of protection given to each class.

4. The conditions of Copyright. Registration by proprietor required.

5. Proprietor explained.

6. Transfer of Copyright, and form of transfer.

7. Application of protected Design, and of fraudulent imitation prohibited. Publication and sale of article, with pirated Design, illegal.

8, 9. Penalties for offences, and recovery of same.

10. Authority to Registrar to cancel and amend Registration.

11. Penalties for wrongfully using marks denoting a registered Design.

12. Limitation of actions and costs.

13. Authority to magistrates to award costs to party wrongfully summoned.

14, 15. Appointment of Registrar and his duties.

16. Certificate of Registry, of what it shall be accepted *prima facie* proof.

17. Inspection of Registered Designs.

18, 19. Application of fees of Registrar, and penalty for extortion.

20. Interpretation clause.

ANNO QUINTO ET SEXTO  
VICTORIÆ REGINÆ,  
CAP. C.

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AN ACT

*To consolidate and amend the Laws relating to  
the Copyright of Designs for ornamenting  
Articles of Manufacture. [10 August, 1842.]*

WHEREAS by the several Acts mentioned in the Schedule (A)<sup>1</sup> to this Act annexed, there was granted, in respect of the woven fabrics therein mentioned, the sole right to use any new and original Pattern for printing the same during the period of three calendar months: Preamble :  
Calico Print-  
ing Acts.  
And whereas by the Act mentioned in the

(1) The acts in Schedule A, (repealed) are the three which were passed in 1787, 1789 and 1794, and conferred a protection of three months upon new and original designs, printed on linens, cottons, calicoes, and muslins; and also the Act passed 2 Vic. c. 13. for extending the three months' protection to new and original designs printed on other woven fabrics.

Designs  
Copyright  
Act.

Schedule (B)<sup>2</sup> to this Act annexed, there was granted, in respect of all articles, except lace, and except the articles within the meaning of the acts hereinbefore referred to, the sole right of using any new and original design, for certain purposes, during the respective periods therein mentioned: But, forasmuch as the protection afforded by the said Acts in respect of the application of designs to certain articles of manufacture is insufficient, it is expedient to extend the same, but upon the conditions hereinafter expressed; Now, for that purpose, and for the purpose of consolidating the provisions of the said Acts, Be it enacted, by The Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this Act shall come into operation on the

(2) The Act in Schedule B, now repealed, extended to proprietors of new and original designs for articles of manufacture, the copyright of such designs for a limited time, and required, as one of the conditions of the copyright, that the designs sought to be protected, should be registered: the duration of copyright under this Act was, for some substances, three years, and for others, twelve months; but lace and the designs printed on linens, cottons, calicoes, and muslins, were expressly exempted from the operation of the Act.



first day of September, 1842.<sup>3</sup> And that thereupon all the said acts mentioned in the said Schedules (A.) and (B.) to this Act annexed shall be, and they are hereby repealed.

1.  
Commence-  
ment of Act,  
and Repeal of  
former Acts.

Provided always, and be it enacted, That notwithstanding such repeal of the said Acts, every Copyright in force under the same shall continue in force till the expiration of such Copyright; and with regard to all offences or injuries committed against any such Copyright before this Act shall come into operation, every penalty imposed and every remedy given by the said Acts, in relation to any such offence or injury, shall be applicable, as if such acts had not been repealed; but with regard to such offences or injuries committed against

2.  
Proviso as to  
existing  
Copyrights.

(3) The Act came into operation on the 1st September, 1842, and thereupon all the five acts above referred to, were repealed; but to prevent persons who had acquired Copyrights under any of the repealed acts sustaining injury, sec. 2, enacts that every Copyright in force under the repealed acts should be continued until the expiration thereof; and that with regard to offences or injuries against any such Copyright committed before the 1st September, 1842, every penalty and remedy given by the said acts, should be applicable as if they had not been repealed; whilst for offences or injuries committed against any such Copyright after 1st September, 1842, every penalty and remedy given by the New Act, should be applicable as if the Copyright had been conferred by the Act.



any such Copyright after this Act shall come into operation, every penalty imposed and every remedy given by this Act, in relation to any such offence or injury, shall be applicable, as if such Copyright had been conferred by this Act.

3.  
Grant of  
Copyright.

2 Vict. c. 17,  
s. 1.

And with regard to any new and original Design (except for Sculpture, and other things within the provisions of the several acts mentioned in the Schedule (C.<sup>4</sup>) to this Act annexed,) whether such Design be applicable to the ornamenting of any article of manufacture, or of any substance, artificial or natural, or partly artificial and partly natural, and that whether such Design be so applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means such Design may be so applicable, whether by printing, or by painting, or by embroidery, or by weaving, or by sewing, or by modelling, or by casting, or by embossing,

(4) Schedule C. relates solely to the Act for encouraging the making of Models and Busts, and another for amending the defects of that Act (1798, 1814,) the defects of the first act were such as to admit of a pirate making a Cast of a Bust, *provided it were a PERFECT fac-simile* of the pirated original! The Statute, said Lord Ellenborough,\* seemed to be framed to defeat its own object.

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\* Gahagan v. Cooper, 3 Camp. 111.

or by engraving, or by staining, or by any other means whatsoever, manual, mechanical, or chemical, separate or combined; Be it enacted,<sup>5</sup> That the Proprietor of every such Design, not previously published either within the United Kingdom of Great Britain and Ireland, or elsewhere,<sup>6</sup> shall have the sole right to

(5) Sec. 3. Enacts that the proprietor (which term is explained in Sec. 5. p. 90.) of any *new and original* design not *previously published* within the United Kingdom, or *elsewhere*, shall for certain periods have the sole right to apply the same to ANY ARTICLES OF MANUFACTURE OR TO ANY SUBSTANCE, whether the Design be applicable for pattern, shape, configuration, or ornament, provided such Design be applied to such article or substance within the United Kingdom, and provided the requisitions\* of the Act are complied with.

(6) The words *not published within the United Kingdom* of Great Britain or ELSEWHERE, it is conceived, will prevent, under the Copyright of Designs Act, a similar absurdity to that which exists under the Patent Law, which admits of an individual enjoying a patent for an invention communicated to him from a foreigner residing abroad, but will not permit him to hold a patent if the foreigner giving the information reside in this country. If the reception of communication be tolerated at all, why should it not be from a foreigner living in England?—and if from a foreigner, why not from an Englishman? If two persons make the same discovery, the one who obtains the patent for it before the other has published it, is adjudged the true and first inventor.

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\* Vide note 13, page 86.

apply the same to any articles of manufacture, or to any such substances as aforesaid, provided the same be done within the United Kingdom of Great Britain and Ireland, for the respective terms hereinafter mentioned, such respective terms to be computed from the time of such design being registered according to this Act; (that is to say)

In respect of the application of any such design to ornamenting any article of manufacture<sup>7</sup> contained in the first, second, third, fourth, fifth, sixth, eighth, or eleventh of the classes following, for the term of three years:

(7) In the classification of articles in respect of which protected Designs are to be applied, provision is made for the duration of protection, and perhaps there is no portion of this important Act which has required more consideration than this, since the adjustment of the duration to different descriptions of manufacture involves a regard to the degree of permanence and costliness of the article, as well as its sale being affected and controlled by the caprice of fashion. The classification adopted, it is probable, may not be such as experience will prove to be necessary, but there is no doubt that the changes effected by the statute will be found improvements. Under the late law, a design for a knife had three years' protection: a costly design for an expensive woven fabric, if printed, was protected for three months only; but if woven into the fabric, the exclusive right was one year. Designs, it is well known, are frequently partly printed, and partly woven, in

In respect of the application of any such design to ornamenting any article of manufacture contained in the seventh, ninth, or tenth of the classes following, for the term of nine calendar months :

In respect of the application of any such design to ornamenting any article of manufacture or substance contained in the twelfth or thirteenth of the classes following, for the term of twelve calendar months :

**Class 1.**—Articles of manufacture composed wholly or chiefly of any metal or mixed metals :<sup>8</sup>

**Class 2.**—Articles of manufacture composed wholly or chiefly of wood :

**Class 3.**—Articles of manufacture composed wholly or chiefly of glass.

which cases the protection over different parts of the same design would vary—a strange state of law to exist in a highly commercial country, which extends ungrudgingly a protection of 28 years\* to a song or a waltz !

|                                                                                                                                                                                                                                                                                                                                                                                   |   |                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----------------------------|
| <p>(8) If a design be applied solely by printing, or by any other process by which colours are produced upon tissues or textile fabrics, to yarn, thread, warp, or any woven fabric composed of linen, cotton, wool, silk, or hair, or any two or more of such materials, except printed woven fabrics known as furnitures, the protection, from the date of registration, is</p> | } | <p><i>Nine months.</i></p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----------------------------|

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\* This protection of twenty-eight years is extended by the Act 5 and 6 Vict. cap. 45.

Class 4.—Articles of manufacture composed wholly or chiefly of earthenware ;

Class 5.—Paper-hangings :<sup>9</sup>

If the design be applied to woven fabrics (furnitures and carpets excepted) by weaving the pattern into the fabric, or if it be applied by any other process than by printing only, or by any other process by which colours are produced, the protection, from the date of registration, is

*Twelve months.*

If the design be applied to any article of manufacture composed wholly or chiefly of metal, wood, glass, or earthenware, or to paper-hangings, carpets, shawls into which the pattern is woven, and printed furnitures, the repeat of the design whereof is more than 12 by 8 inches, the protection, from the date of registration, is

*Three years.*

If the design be applied to lace, or woven fabrics not comprised in any preceding class, or to any article of manufacture or substance not before specified, the protection, from the date of registration, is

*Twelve months.*

It is important to observe, that for the designs of foreigners protection can be procured, provided they be new and original—not published in the United Kingdom or elsewhere—and provided the application of the design take place in this country, but no article whereto the design is applied abroad will receive any protection in this country.

--(9) Under the 2 Vic. cap. 17, paper hangings had a

Class 6.—Carpets :

Class 7.—Shawls, if the design be applied solely by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics :

protection of only one year, which, from the nature of the trade, the necessarily slow introduction of a design of merit, and the duration of the article in use, was useless. The sale of a pattern is always slow at the beginning, considerable time is required for its getting known in the market, which is accomplished by incurring great expence in distributing samples throughout the country, and the sale of a successful design continues for several years. The property in patterns was seriously injured by copying, and the copyist had immense advantages over the original producer, by reason of his being able to avail himself not only of the design, but of the skill and taste of the manufacturer in the selection of colouring and adaptation of the pattern to the prevailing fashion. He saved the expence of the design, executed his copies from the specimens exhibited by the original proprietor, and had recourse only to such patterns as had obtained popularity. Mr. Boyle and Mr. Turner, two of the most celebrated paper-stainers in the trade, in their objections to the copyright under 2 Vic. cap. 17, represented before the Select Committee the utter inutility of a twelvemonth's protection, and enumerated the following amongst the objections to the registration :—1st, The register being open, instead of secret ; 2nd, The excessive fee required ; 3rd, The necessity of printing on each piece the name, &c. which induced the return of patterns without being exhibited ; and 4thly,

Class 8.—Shawls not comprised in Class 7 :

Class 9.—Yarn, thread, or warp, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced :

Class 10.—Woven fabrics composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics ; excepting the articles included in Class 11.

Class 11.—Woven fabrics, composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, such woven fabrics being or coming within the description technically called furnitures, and the repeat of the design whereof

The obligation of impressing on each article the date of its production, which tended to destroy the charm of novelty, and as a consequence, to check sales.

There is hardly any export trade in paper-hangings at this time. Half a century ago, France was supplied to a large amount with paper-hangings manufactured in England ; but now France supplies all England, and all the neutral markets, with the most tasty productions.

shall be more than twelve inches by eight inches:<sup>10</sup>

Class 12.—Woven fabrics, not comprised in any preceding Class:<sup>11</sup>

Class 13.—Lace and any article of manufac-

(10) Furniture printing comprises hangings, covers, architectural ornaments, decorations, and tapestries, the designs for which are more elaborate, and, like paper hangings, require much time for introduction, and continue in vogue longer than garments. Between some of the styles of furnitures and garments it might be difficult to draw the line, and to obviate objection on this head, it is defined, that in addition to the patterns alluded to coming within the range known technically as furnitures, the repeat of the design shall be more than 12 inches by 8 inches. Simple stripes can have no protection.

(11) *Woven fabrics not comprised in any preceding class.*

—Without some such general words as these many important branches of trade would have been without any protection of designs, and it is only necessary to instance the case of the tambour worker and embroiderer, in which Mr. Emerson Tennent, as one of the representatives in Parliament of Belfast, of course felt a deep interest. In the north of Ireland, employment is given to a vast number of females amongst the peasantry by embroidering with the needle, and the patterns not being woven or printed had no protection. It was also impossible for the manufacturer to comply with the requisitions as to the publication and impressing names and dates upon the end of each piece: he may now attach a label with the registration mark.



ture or substance not comprised in any preceding Class.<sup>12</sup>

4.  
Conditions of  
Copyright.

Provided always, and be it enacted, That<sup>13</sup>

(12) *Lace*.—Designs applied to lace were also without protection: some proprietors of lace produced by machinery were opposed to extension, while the makers of pillow lace were in favour of copyright.

(13) The conditions of the grant of copyright, and of the continuance of the protection during the specified time, are numerous.

Before a design is published it must be registered with the registrar of designs, F. B. Long, Esq., whose office is at No. 35, Lincoln's Inn-fields.

At the time of registering, the proprietor should specify, in writing or in print, what classes of articles of manufacture or substances, as specified in the Act, he desires to register the design; and he will have to state his name, or the style or title of the firm under which the proprietor is trading, with the place of abode, or place of carrying on his or their business.

The proprietor must furnish the registrar with two copies, drawings or prints, of the design, for each class in which such design is to be registered: on every such copy, drawing, or print, or connected therewith, the registrar will affix a number corresponding to the succession in which the design is received by him; one of such two copies, drawings, or prints will be retained by the registrar, and the other will be returned to the proprietor. The registrar, in addition to putting on a number to correspond with the succession in which the design is received, will, upon the copy, drawing or print, returned to the proprietor or attached thereto, certify under his hand that the design has been registered, the date of the registration, the name of

no person shall be entitled to the benefit of this Act, with regard to any design in respect of the application thereof to ornamenting any article of manufacture, or any such substance, unless such design have, before publication thereof, been registered according to this Act, Registration.

the registered proprietor, or the style or title of the firm under which he is trading, with his place of abode, or place of carrying on his business, and also certain numbers and letters in a form, denoting or corresponding with the date of such registration.

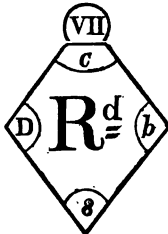
If the article of manufacture be a printed woven fabric, there must be at one end the letters R<sup>d</sup>, with such numbers and letters, and in such form as are used by the registrar. Articles of manufacture, other than printed woven fabrics, must have at the end or edge thereof, or other convenient place thereon, the letters R<sup>d</sup>, together with such numbers and letters, and in such form as are used by the registrar. Such numbers, letters, and form may be put on any such last referred to articles of manufacture, or substance, either by making the same on the material itself, or by attaching thereto a label containing them. The following will furnish the reader with some idea of the Forms to be employed :—

FORM No. I.

*(Which is to accompany the pattern or batch of patterns intended to be registered.)*

Black, White, and Co., 120, Fountain Street, Manchester, claim to be the Proprietors of this Design, (or these Designs,) and desire to register the same in respect of Class 10 (or Classes 10, 11, 12).

and unless at the time of such registration such design have been registered in respect of the  
FORM No. II.

|                                                                                                                                                                                                                                                                                                                                                  |                                                                                   |                                                                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Office of Registrar of Designs.<br/>London,</p>                                                                                                                                                                                                                                                                                               |                                                                                   |                                                                                                                                                                          |
| <p>No. _____</p>                                                                                                                                                                                                                                                                                                                                 |                                                                                   |                                                                                                                                                                          |
| <p>I hereby certify that the Design, of which this is a copy, was on behalf of _____ of _____ registered this _____ day of _____ in pursuance of the Designs Copyright Act, 5 and 6 Vic. cap. 100, in respect of the application of such Design to ornamenting articles comprised in Class _____, for which is granted a Copyright of _____.</p> |                                                                                   |                                                                                                                                                                          |
| <p>By 5 &amp; 6 Vic. c. 100, sec. 4. all articles to which this Design is applied, must bear <i>this mark</i> during the Copyright.</p>                                                                                                                                                                                                          |  | <p>By sect. 11. any person who shall unlawfully apply this mark, or any other similar thereto, shall forfeit for every such offence a sum not exceeding five pounds.</p> |

The size of the *Form* may be varied to suit the convenience of parties ; but the *Form* and arrangement must not be varied.

The Roman figures at the top will denote the class under the Act in respect of which the design is registered.

The substitution of the above form for the late requisition of fixing names and dates, is desirable for the following reasons :—There will be no trouble of printing names and dates of publication, which was strongly objected to ; all risk will be obviated of invalidating the copyright of valuable patterns registered in the same day, and in one batch, by one proprietor, from the mere accident of perhaps a boy in his employ inadvertently placing on one

application thereof to some or one of the articles of manufacture or substances comprised in the above-mentioned classes, by specifying the number of the class in respect of which such piece of one of the protected patterns a set of wrong figures denoting the number in the registry : and the sale of goods will not be impeded by the unnecessary exposure of dates destroying the charm of novelty, whilst means will be afforded to competing manufacturers and to the public of ascertaining whether a design is protected or not. The mark in Form No. II. may apply to two hundred patterns, if they be all registered at one time, and in one class only.

If proprietors desire to attach their names and addresses to their manufactures, it is competent, although not necessary, for them to do so.

Two cases were suggested in which hardship and injustice were likely to be experienced: the first, that of a party registering a design which he is conscious has no title to originality, and, by giving notice to parties not to sell their goods alleged by him to be infringements of his wrongfully claimed copyright, occasioning them both inconvenience and loss : the second, that of a party, without a legal copyright, taking summary proceedings before a magistrate against an individual, and inflicting on him loss and costs of defending himself in the doing of that which the result may prove to have been perfectly legal. To meet the first case ; if a fraudulent and malicious intention be established, it is presumed a special action on the case would lie for damages against any party so injuring another in the lawful pursuit of his business ; and, to prevent the hardship anticipated in the second case, Sect. 13, was introduced on the third reading of the Bill.

registration is made, and unless the name of such person shall be registered according to this Act as a proprietor of such design, and unless, after publication of such design, every such article of manufacture, or such substance, to which the same shall be so applied, published by him, hath thereon, if the article of manufacture be a woven fabric for printing, at one end thereof, or if of any other kind or such substance as aforesaid, at the end or edge thereof, or other convenient place thereon, the letters

Marks denoting a registered Design.

“R<sup>d</sup>,” together with such number or letter, or number and letter, and in such form as shall correspond with the date of the registration of such design, according to the registry of designs in that behalf; and such marks may be put on any such article of manufacture, or such substance, either by making the same in or on the material itself of which such article or such substance shall consist, or by attaching thereto a label containing such marks.

5.

“Proprietor” explained.

And be it enacted, That the author of any such new and original design shall be considered the proprietor<sup>14</sup> thereof, unless he have executed

(14) The preceding Section, requiring the design to be registered in the name of the proprietor, or the names of the proprietors, it was necessary to declare who should be considered as *proprietor* or proprietors; for that purpose it is enacted that the following shall be so considered:—

*First*.—The author of any new and original design,

the work on behalf of another person for a good or a valuable consideration, in which case such person shall be considered the proprietor, and shall be entitled to be registered in the unless he has executed the work on behalf of *another person for a good and valuable consideration*.

*Secondly.*—Every person acquiring, for a good and valuable consideration a new and original design, or the right to apply the same partially; the words "*on behalf of another person for a good or valuable consideration*," it is conceived, will comprise persons in the pay or employ of manufacturers, and persons from whom designs may be purchased.

*Thirdly.*—Every person upon whom the property in a design, or the right to the application thereof shall devolve, such as assignees by operation of law, trustees by the acts of the parties, or personal representatives of a deceased proprietor.

The words, "*either exclusively of any other person or otherwise*," seem to contemplate the granting of licenses to different people to apply a registered design. In no case as a matter of course can a right be transmitted in a more enlarged capacity, or to a greater extent, than was enjoyed by the proprietor.

"ON BEHALF OF ANOTHER PERSON."—These words are absolutely necessary to meet the facts under which designs are frequently made; and it is perhaps desirable that the law of patents should, in this respect, be altered to admit of greater latitude than it does at present. What substantial objection can be urged to an inventor having power to assign his right to a patent with a view to the assignee having the patent in his own name? Neither the public

place of the author; and every person acquiring, for a good or a valuable consideration, a new and original design, or the right to apply the same to ornamenting any one or more articles of manufacture, or any one or more such substances as aforesaid, either exclusively of any other person or otherwise, and also every person upon whom the property in such design, or such right to the application thereof, shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

6.  
Transfer of  
Copyright,  
and Register  
thereof.

And be it enacted, That every person purchasing or otherwise acquiring the right to the entire or partial use of any such design may enter his title in the register hereby provided;<sup>15</sup> and any writing purporting to be a transfer of such design, and signed by the proprietor thereof, shall operate as an effectual transfer; and the registrar shall, on request, and the production of such writing, or in the case of

nor individuals would be injured, and the parties would be saved the necessity of incurring useless heavy expences.

(15) "ANY WRITING PURPORTING TO BE A TRANSFER."  
—The form of the document purporting to be a transfer is immaterial, provided it be signed by the proprietor: to prevent the occurrence of any difficulty the forms of a transfer and authority to register are given.

acquiring such right by any other mode than that of purchase, on the production of any evidence to the satisfaction of the registrar, insert the name of the new proprietor in the register; and the following may be the form of such transfer, and of such request to the registrar:

**FORM OF TRANSFER, AND AUTHORITY TO REGISTER.**

“I, A. B., author [or, proprietor] of design, No.        having transferred my right thereto [or, if such transfer be partial], so far as regards the ornamenting of [describe the articles of manufacture or substances, or the locality with respect to which the right is transferred], to B. C., of       , do hereby authorise you to insert his name on the register of designs accordingly.”

**FORM OF REQUEST TO REGISTER.**

“I, B. C., the person mentioned in the above transfer, do request you to register my name and property in the said design as entitled [if to the entire use] to the entire use of such design [or, if to the partial use], to the partial use of such design, so far as regards the application thereof [describe the articles of manufacture, or the locality in relation to which the right is transferred].”



But if such request to register be made by any person to whom any such design shall devolve otherwise than by transfer, such request may be in the following form :

“ I, C. D., in whom is vested by [state bankruptcy or otherwise] the design, No. , [or, if such devolution be of a partial right, so far as regards the application thereof] to [describe the articles of manufacture or substance, or the locality in relation to which the right has devolved].”

7.  
Piracy of  
Designs.

And for preventing the piracy of registered designs, Be it enacted, That during the existence of any such right to the entire or partial use of any such design,<sup>16</sup> no person shall either do or

(16) This section declares that, without the licence or consent in writing of the registered proprietor, no person during the existence of any copyright to the entire or partial use of a registered design, shall do any of the acts thereinafter mentioned, with regard to any articles of manufacture or substances in respect of which the copyright shall be in force. The insertion of this clause renders it necessary for proprietors, if they wish to secure the exclusive right of applying a design to more than one of the particular classes specified in Sect. 3, to register the same in reference to the whole of such classes as the proprietor may desire his copyright to extend. Two copies, drawings, or prints of a design will be required for each

cause to be done any of the following acts with regard to any articles of manufacture, or substances, in respect of which the copyright of such design shall be in force, without the license or consent in writing of the registered proprietor thereof; (that is to say)

No person shall apply any such design, or any fraudulent imitation<sup>17</sup> thereof for

class in which it is to be registered, and separate fees will be payable for each class. The duration of the term of copyright will of course vary according to the classes of articles protected. Calico printers, it is apprehended, will occasionally deem it advisable to register their designs under Classes 10 and 12, as, in the event of their registering only under Class 10, it would be competent for a manufacturer to bring out the same pattern woven into a fabric.

A registered pattern for a paper-hanging, it will be competent for a carpet manufacturer to apply to carpets, unless the paper-stainer register for Class 6, as well as Class 5.

(17) The words "*fraudulent imitation*" are introduced into this Act in preference to the word "*Copy*," as, under the old Calico Acts, difficulties were entertained respecting that word, notwithstanding the dicta of learned judges. In the case of *West and Francis*, under the Engravers' Act, 17 Geo. III. c. 57; the vendor of a print being a copy in part of another, by varying in some trifling respect from the main design, was held liable in a special action on the case by the proprietor of the original, and that, although the vendor did not know it to be a copy.

the purpose of sale, to the ornamenting of any article of manufacture, or any substance, artificial or natural, or partly artificial and partly natural:

The following are some of the dicta of the learned judges in that case:—

Abbot (Chief Justice)—The question is, what is the meaning of the word "*Copy*" of a print. Now, in common parlance, there may be a copy of a print where there exists but small variation from the original.

Bayley (Justice)—There can be no reason why a person should not be liable when he sells a copy with a mere collusive variation, and I think we should put a narrow construction on the statute, if we held such a collusive variation from the original not to be a copy. A copy is that which comes so near the original as to give to every person receiving it the idea created by the original.

Again, as reported in Dowling and Ryland, p. 407 (1822), that learned Judge said:—My opinion is founded upon the fact stated by the witnesses for the plaintiff, that the prints sold by the defendant were substantially copies of those which had been originally published by the plaintiff.

In construing the word "*Copy*," as used in the statute, we must take it in its common, popular, and ordinary sense. Distinctions would be endless, if we were to say that it must mean an exact copy; because, if there was the slightest dissimilarity, the statute would be evaded.

The foregoing remarks, from judges of eminence, it might be supposed would have been sufficient to set all doubts at rest relative to the fair construction of

No person<sup>18</sup> shall publish, sell or expose for sale any article of manufacture, or any substance, to which such design, or any fraudulent imitation thereof, shall

what would constitute "*a copy*."—"A small variation," Lord Tenterden thought, would not prevent a copy being considered as *a copy*; and Mr. Justice Bayley held that a variation of a collusive character would not avail the copyist. But the word "*Copy*," as is before observed, does not occur in the present Act; the intention of the legislature has been to protect original proprietors against fraud, and it has adopted the words—"designs, or any fraudulent imitation thereof." The question hereafter under this Act will not be whether one design be a copy of another or not, but whether it is a fraudulent imitation;—"fraudulent" imports intention to deceive, and proprietors will therefore have less difficulty in cases of *imitation* than of copies, or alleged copies.

(18) For the prevention of piracy, several acts are forbidden to be done.

No person is to apply any registered design, or any fraudulent imitation thereof, for sale, to ornamenting any article.

No person is to publish, sell, or expose for sale, any article to which a pirated design, or any fraudulent imitation of a registered design, shall have been applied, after the person has received verbally or in writing, or otherwise, from any source other than the proprietor, notice that his consent has been given, nor after the person has been served with or had left at his premises, a written notice signed by the proprietor or his agent.

have been so applied, after having received either verbally<sup>19</sup> or in writing or otherwise, from any source other than the proprietor of such design, knowledge that his consent has not been given to such application, or after having been served with or had left at his premises a written notice, signed by such proprietor or his agent to the same effect.

8. **Recovery of Penalties for Piracy.** And be it enacted, That if any person commit any such act, he shall for every offence forfeit a sum not less than five pounds and not exceeding thirty<sup>20</sup> pounds to the proprietor of the design in respect of whose right such offence has been committed, and such proprietor may recover such penalty as follows:

(19) The words of the old Act rendered it necessary that the proprietor should prove that the offending party exposed the pirated goods for sale, knowing that the proprietor had not given his consent, and the proof by the proprietor of this knowledge on the part of the offending party, that the proprietor had not given his consent, was more than the proprietor could adduce. The objectionable words are omitted in this Act, and in their stead are substituted the words relative to notice.

(20) The penalties under the Act may, for every offence, vary from 5*l.* to 30*l.*; but the aggregate amount in respect of any one design committed by any one person up to the time at which proceedings may be instituted, cannot exceed 100*l.*

In England,<sup>21</sup> either by an action of debt, or on the case against the party offending, or by summary proceeding before two justices having jurisdiction where the party

(21) The remedies given by the Act are various. An injured proprietor may in England bring an action for the recovery of special damages, or he may proceed for the penalties by an action of debt, or an action on the case, or he may proceed by summons before two justices; and in case he have ground for such a measure, he may apply to one of the judges in equity for an injunction to restrain the party offending continuing to injure him. Sec. 9, expressly provides, that notwithstanding the fact of penalties being given by the statute, an injured party may, if he elect to do so, have recourse to his action for recovering damages.

Forms of the proceeding before justices, and of the justices' conviction, are incorporated in the Act, which will remove several of the difficulties experienced under the late Act in the proceedings before magistrates. It will be necessary for a party having recourse to the summary proceeding to observe, that the justices have jurisdiction where the party offending resides—that they are not concerned in the sale or manufacture of the article or design to which the proceeding relates—that eight clear days intervene between the date of the summons and the day on which the offending party is required to appear, and that he be served by the summons being left with him personally, or at his usual place of *abode*, which the place of carrying on his business may not necessarily be. The proceeding must be had recourse to within twelve months after the commission of the offence.

offending resides ; and if such proprietor proceed by such summary proceeding, any justice of the peace acting for the county, riding, division, city, or borough where

The application for an injunction is founded on a bill filed in the Court of Chancery, setting forth the title of the plaintiff to the design pirated, the offence of the defendant, and praying that the defendant may be restrained from continuing the injury, and that an account may be taken against him relative to the profits derived from the sale of the pirated goods.

The proceeding by injunction should not be had recourse to unless the party be in a situation to prove that he is the proprietor of the particular design—that it is new and original,—that he has complied with the terms and requisitions of the statute,—and that the defendant has committed one or more of the acts prohibited in Sec. 7. In all applications for injunctions, the plaintiff is, of course, required to establish that he has reasonable ground for anticipating the future or continued sale or manufacture of the pirated goods by the defendant.

In proceeding for an injunction, promptitude and dispatch are essential. The judge, on hearing the application, which it is possible to make without notice, will sometimes make an order on an inspection of a piece of a registered design, and a piece of the imitation verified, of course, by affidavit. If he grant the injunction, it is binding on the defendant from the time that he has notice of the order having been pronounced. The mode of the defendant's proceeding, if he intend to oppose the injunction and to dispute the right of the plaintiff, will be, to put in his answer on oath,

the party offending resides, and not being concerned either in the sale or manufacture of the article of manufacture, or in the design to which such summary proceeding relates, may issue a summons requiring such party to appear on a day and at a time and place to be named in such summons, such time not being less than

and after giving notice to the plaintiff, he will have to move the Court, by his counsel, to dissolve the injunction. When the case is argued, an issue to a court of common law may or may not be directed to try the question of originality, and the validity of the plaintiff's title to protection. The judge may either dissolve or continue the injunction, and it is for him to direct by whom the costs shall be paid.

In Scotland, it is apprehended, that the proceeding of an Interdict is analagous to the proceeding by Injunction in the courts of equity in England. In Scotland it is provided that redress may be had in the Court of Session or before the Sheriff.

In Ireland, an action is to be in a superior court of law at Dublin, or by civil bill of the court of the county in which the offence is committed.

The proceedings by actions at law, it will be observed are merely *remedial*, and therefore not so effective as the proceeding by injunction, which may not only enable the injured party to obtain the profits realized by the defendant from his illegal dealings, but also secure to the plaintiff a discontinuance of the injury by the further manufacture or sale of pirated articles.



eight days from the date thereof; and every such summons shall be served on the party offending, either in person or at his usual place of abode; and either upon the appearance or upon the default to appear of the party offending, any two or more of such justices may proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the party offending, or upon the oath or affirmation of one or more credible witnesses, which such justices are hereby authorized to administer, may convict the offender in a penalty of not less than five pounds or more than thirty pounds, as aforesaid, for each offence, as to such justices doth seem fit; but the aggregate amount of penalties for offences, in respect of any one design, committed by any one person up to the time at which any of the proceedings herein mentioned shall be instituted, shall not exceed the sum of one hundred pounds; and if the amount of such penalty or of such penalties, and the costs attending the conviction, so assessed by such justices, be not forthwith paid, the amount of the penalty or of the penalties, and of the costs, together with the costs of the distress and sale, shall be levied by distress and sale of the goods and chattels

of the offender, wherever the same happen to be in England; and the justices before whom the party has been convicted, or, on proof of the conviction, any two justices acting for any county, riding, division, city or borough, in England, where goods and chattels of the person offending happen to be, may grant a warrant for such distress and sale; and the overplus, if any, shall be returned to the owner of the goods and chattels, on demand, and every information and conviction which shall be respectively laid or made in such summary proceeding before two justices under this Act, may be drawn or made out in the following forms respectively, or to the effect thereof, *mutatis mutandis*, as the case may require :

### FORM OF INFORMATION.

“ BE it remembered, That on the \_\_\_\_\_ at \_\_\_\_\_  
in the county of \_\_\_\_\_ A. B.,  
of \_\_\_\_\_ in the county of \_\_\_\_\_ [or  
C. D., of \_\_\_\_\_ in the county of \_\_\_\_\_  
at the instance and on the behalf of A. B.,  
of \_\_\_\_\_ in the county of \_\_\_\_\_ ]  
cometh before us \_\_\_\_\_ and  
two of her Majesty’s Justices of the Peace  
in and for the county of \_\_\_\_\_, and  
giveth us to understand that the said A. B.,

before and at the time when the offence hereinafter mentioned was committed, was the proprietor of a new and original Design for [here describe the Design]; and that within twelve calendar months last past, to wit, on the                      at                      in the county of                      E. F., of                      in the county of                      did [here describe the offence], contrary to the form of the Act passed in the                      year of the reign of her present Majesty, intituled, "An Act to consolidate and amend the Laws relating to the Copyright of Design for ornamenting Articles of Manufacture."

#### FORM OF CONVICTION.

"BE it remembered, That on the                      day of                      in the year of our Lord at                      in the county of                      E. F., of                      in the county aforesaid, is convicted before us,                      and                      two of her Majesty's Justices of the Peace for the said county, for that he the said E. F., on the                      day of                      in the year at                      in the county of                      did [here describe the offence] contrary to the form of the Statute in that case made and provided. And we the said Justices do adjudge that the said E. F. for his offence aforesaid hath forfeited the sum of                      to the said A. B."

In Scotland, by action before the Court of Session in ordinary form, or by summary action before the sheriff of the county where the offence may be committed or the offender resides, who, upon proof of the offence or offences, either by confession of the party offending, or by the oath or affirmation of one or more credible witnesses, shall convict the offender and find him liable in the penalty or penalties aforesaid, as also in expenses; and it shall be lawful for the sheriff, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding: Provided always, That it shall be lawful to the sheriff, in the event of his dismissing the action and assoilzing the defender, to find the complainer liable in expenses; and any judgment so to be pronounced by the sheriff in such summary application shall be final and conclusive, and not subject to review by advocacy, suspension, reduction, or otherwise:

In Ireland, either by action in a Superior Court of Law, at Dublin, or by a civil bill in the Civil Bill Court of the county or place where the offence was committed.

9. Proviso as to  
Action for  
Damages. Provided always, <sup>22</sup> and be it enacted, That notwithstanding the remedies hereby given for the recovery of any such penalty as aforesaid, it shall be lawful for the proprietor, in respect of whose right such penalty shall have been incurred (if he shall elect to do so), to bring such action as he may be entitled to for the recovery of any damages which he shall have sustained, either by the application of any such design, or of a fraudulent imitation thereof for the purposes of sale, to any articles of manufacture, or substances, or by the publication, sale or exposure to sale, as aforesaid, by any person of any article or substance to which such design, or any fraudulent imitation thereof, shall have been so applied, such person knowing that the proprietor of such design had not given his consent to such application.

10. CLAUSE (A).  
Registration  
may in some  
cases be  
cancelled or  
amended. And be it enacted, <sup>23</sup> That in any suit in

(22) It will not, under this clause, be competent for an injured party to bring his action for damages as well as to sue for penalties.

(23) The object of this clause is to empower a judge in equity to make an order in a suit directing an improper registration to be cancelled, and to substitute in the register the name of the true proprietor instead of a wrongful one. Under the late law, a proprietor, in the event of his design being wrongfully published, had no means of acquiring an exclusive right to the design after publication.

equity which may be instituted by the proprietor of any design, or the person lawfully entitled thereto, relative to such design, if it shall appear to the satisfaction of the judge having cognizance of such suit, that the design has been registered in the name of a person not being the proprietor or lawfully entitled thereto, it shall be competent for such judge, in his discretion, by a decree or order in such suit, to direct either that such registration be cancelled (in which case the same shall thenceforth be wholly void), or that the name of the proprietor of such design, or other person lawfully entitled thereto, be substituted in the register for the name of such wrongful proprietor or claimant, in like manner as is hereinbefore directed in case of the transfer of a design, and to make such order respecting the costs of such cancellation or substitution, and of all proceedings to procure and effect the same, as he shall think fit; and the registrar is hereby authorized and required, upon being served with an official copy of such decree or order, and upon payment of the proper fee, to comply with the tenor of such decree or order, and either cancel such registration, or substitute such new name, as the case may be.

And be it enacted, That unless a design<sup>24</sup> 11.

(24) The prohibition contained in this clause is calculated to prevent much fraud on the public. It is declared.

Penalty for  
wrongfully  
using Marks  
denoting a  
registered  
Design.

applied to ornamenting any article of manufacture, or any such substance, as aforesaid, be so registered as aforesaid, and unless such design so registered shall have been applied to the ornamenting such article or substance within the United Kingdom of Great Britain and Ireland, and also after the copyright of such design in relation to such article or substance shall have expired, it shall be unlawful to put on any such article or such substance, in the manner hereinbefore required with respect to articles or substances whereto shall be applied a registered design, the marks hereinbefore required to be so applied, or any marks corresponding therewith or similar thereto; and if any person shall so unlawfully apply

to be unlawful for a person to apply to an unregistered design, or to any article to which a registered Design shall not have been applied within the United Kingdom, or to apply to any article after the expiration of the Copyright, the registration mark or any corresponding or similar mark; and that if any person do so unlawfully apply any such mark, or shall publish, sell, or expose for sale, any article to which the mark shall have been so unlawfully applied (such person knowing that the mark has been unlawfully applied), shall forfeit for every offence a sum not exceeding 5*l*. The language of the Act, it will be observed, does not restrict a person from selling, after the Copyright has ceased, any article having the registration mark, not applied contrary to the provisions of the Act.

any such marks, or shall publish, sell or expose for sale any article of manufacture, or any substance, with any such marks so unlawfully applied, knowing that any such marks have been unlawfully applied, he shall forfeit for every such offence a sum not exceeding five pounds, which may be recovered by any person proceeding for the same by any of the ways hereinbefore directed with respect to penalties for pirating any such design.

And be it enacted, That no action or other proceeding for any offence or injury under this Act shall be brought after the expiration of twelve calendar months<sup>25</sup> from the commission of the offence; and in every such action or other proceeding the party who shall prevail shall recover his full costs of suit or of such other proceeding. 12.  
Limitation of  
Actions and  
Costs.

And be it enacted,<sup>26</sup> That in case of any 13.

(25) No legal proceedings can be instituted under the Act at a later period than twelve months after the commission of the offence, and in the proceedings the successful party is to obtain his full costs of suit. Justices may  
order pay-  
ment of costs  
in cases of  
summary  
proceedings.

(26) This section was introduced at a late stage of the Bill to authorise justices, &c., to award costs to the party summoned in the event of his being put to trouble and inconvenience without sufficient reason. Sect. 8, it will be remembered, provides that if the injured party resolve on having recourse to summary proceedings before two justices, the proceeding must be before justices having jurisdiction where the offending party resides.



summary proceeding before any two justices in England, such justices are hereby authorized to award payment of costs to the party prevailing, and to grant a warrant for enforcing payment thereof against the summoning party, if unsuccessful, in like manner as is hereinbefore provided for recovering any penalty, with costs, against any offender under this Act.

14. Registrar, &c.  
of Designs to  
be appointed. And for the purpose of registering designs for articles of manufacture, in order to obtain the protection of this Act, be it enacted, That the Lords of the Committee of Privy Council, for the consideration of all matters of trade and plantations, may appoint a person to be a registrar<sup>27</sup> of designs for ornamenting articles of manufacture; and if the lords of the said committee see fit, a deputy registrar, clerks, and other necessary officers and servants; and such registrar, deputy registrar, clerks, officers and servants, shall hold their offices during the pleasure of the lords of the said committee; and the Commissioners of the Treasury may from time to time fix the salary or remuneration of such registrar, deputy registrar, clerks, officers and servants; and, subject to the provisions of this Act, the lords of the said com-

(27) The Lords of the Committee of Privy Council have appointed F. B. Long, Esq., the Registrar. The Registrar's office is removed from Wellington Street to 35, Lincoln's Inn Fields.

mittee may make rules for regulating the execution of the duties of the office of the said registrar; and such registrar shall have a seal of office.

And be it enacted, That the said registrar shall not register<sup>28</sup> any design in respect of any application thereof to ornamenting any articles of manufacture, or substances, unless he be furnished, in respect of each such application, with two copies, drawings or prints of such design, accompanied with the name of every person who shall claim to be proprietor, or of the style or title of the firm under which such proprietor may be trading, with his place of abode, or place of carrying on his business, or other place of address, and the number of the class in respect of which such registration is made; and the registrar shall register all such copies, drawings or prints, from time to time successively, as they are received by him for that purpose; and on every such copy, drawing or print, he shall affix a number corresponding to such succession; and he shall retain one

15.  
Registrar's  
Duties.

(28) The Registrar, as an executive officer, has not the power to register any design, unless the requisitions of the Act in reference to the deposit of the drawings, prints, or copies are complied with; and therefore, as he will *not have any discretion*, parties desiring to register should pay particular attention to the observations and instructions in Notes under Sect. 3. and 4. p. 79 and 86.

copy, drawing or print, which he shall file in his office, and the other he shall return to the person by whom the same has been forwarded to him; and in order to give<sup>29</sup> ready access to the copies of designs so registered, he shall class such copies of designs, and keep a proper index of each class.

16. Certificate of Registration of Design. And be it enacted, That upon every copy, drawing or print of an original design so returned to the person registering as aforesaid, or attached thereto, and upon every copy, drawing or print thereof received for the purpose of such registration, or of the transfer of such design being certified thereon, or attached thereto, the registrar shall certify,<sup>30</sup> under his hand, that the design has been so registered, the date of such registration, and the name of the registered proprietor, or the style or title of the firm under which such proprietor may be trading, with his place of abode, or place of carrying on his business, or other place of address, and also the number of such design, together with such number or letter, or number and letter, and in such form as shall be employed by him to denote or correspond with

(29) The ready access to the copies of Designs here aluded to, it will be observed, is restricted by Sect. 17. to the inspection of Designs whereof the Copyright shall have expired.

(30) The form of the Certificate is given, ante, p. 88.

the date of such registration ; and such certificate made on every such original design, or on such copy thereof, and purporting to be signed by the registrar or deputy-registrar, and purporting to have the seal of office of such registrar affixed thereto, shall, in the absence of evidence to the contrary,<sup>31</sup> be sufficient proof, as follows :—

Of the design, and of the name of the proprietor therein mentioned, having been duly registered ; and

(31) The object in declaring that the certificate shall be deemed sufficient proof of the several facts particularized, in the absence of evidence to the contrary, is to avoid a vast deal of expense and trouble which would otherwise be attached to the establishing of any offence. No person will have a wrong inflicted upon him, as, if in his defence it should be desirable or necessary to deny the due registration of the Design, its originality, &c., it will be competent for him to adduce proof in support of his denial.

After the expiration of Copyright in a Design, any person on paying the proper fee will be at liberty to inspect a particular Design, and both before and after the expiration of Copyright in a Design it is lawful for the registrar to give to any person producing a particular Design with the registration mark—or producing the registration mark only, a certificate relative to the existence of Copyright of the Design, to what class of articles the Copyright is in force, its term, the date of registration, and the name and address of the proprietor.

Of the commencement of the period of registry ; and

Of the person named therein as proprietor being the proprietor ; and

Of the originality of the design ; and

Of the provisions of this Act, and of any rule, under which the certificate appears to be made, having been complied with :

And any such writing purporting to be such certificate shall, in the absence of evidence to the contrary, be received as evidence without proof of the handwriting of the signature thereto, or of the seal of office affixed thereto, or of the person signing the same being the registrar or deputy-registrar.

17. Inspection of registered Designs. And be it enacted, That every person shall be at liberty to inspect any design whereof the copyright shall have expired, paying only such fee as shall be appointed by virtue of this Act in that behalf; but with regard to designs whereof the copyright shall not have expired, no such design shall be open to inspection,<sup>32</sup>

(32) This special exception in favour of the proprietor, &c., it was necessary to insert, with a view to inspection in legal disputes, wherein personal examination is likely to become necessary. The preceding part of the Sect. is in the positive words—“ *but with regard to Designs whereof the Copyright shall not have expired, no such Design shall be open to inspection.*”

except by a proprietor of such design, or by any person authorized by him in writing, or by any person specially authorized by the registrar, and then only in the presence of such registrar, or in the presence of some person holding an appointment under this Act, and not so as to take a copy of any such design, or of any part thereof, nor without paying for every such inspection such fee as aforesaid: Provided always, That it shall be lawful for the said registrar to give to any person applying to him and producing a particular design, together with the registration-mark thereof, or producing such registration-mark only, a certificate stating whether of such design there be any copyright existing, and if there be, in respect to what particular article of manufacture, or substance, such copyright exists, and the term of such copyright, and the date of registration, and also the name and address of the registered proprietor thereof.

And be it enacted, That the Commissioners 18.  
of the Treasury shall from time to time fix <sup>Application</sup>  
fees<sup>33</sup> to be paid for the services to be performed <sup>of Fees of</sup>  
by the registrar, as they shall deem requisite, <sup>Registration.</sup>

(33) The following is the Table of Fees. The Commissioners of the Treasury has the power to alter all the registering fees except those in respect of the sums demandable for paper-hangings, and for Designs registered under Classes 7, 9, and 10. The fee for paper-hangings

to defray the expenses of the said office, and the salaries or other remuneration of the said registrar, and of any other persons employed cannot exceed 10s., and the fee for calicoes and other articles comprised in Classes 7, 9, and 10, cannot exceed 1s.. The fee for printed furnitures will be 5s.

TABLE OF FEES.

| Class. | Articles.                                                                    | Term of Copyright. | Fee. |       |
|--------|------------------------------------------------------------------------------|--------------------|------|-------|
|        |                                                                              |                    | £    | s.    |
| 1      | Metals .....                                                                 | 3 years            | 3    | 0     |
| 2      | Wood .....                                                                   | 3 years            | 1    | 0     |
| 3      | Glass .....                                                                  | 3 years            | 1    | 0     |
| 4      | Earthenware .....                                                            | 3 years            | 1    | 0     |
| *5     | Paper-hangings .....                                                         | 3 years            | 0    | 10    |
| 6      | Carpets .....                                                                | 3 years            | 1    | 0     |
| *7     | Shawls (printed).....                                                        | 9 months           | 0    | 1     |
| 8      | Shawls (not printed) .....                                                   | 3 years            | 1    | 0     |
| *9     | Yarn, thread, or warp (printed) ..                                           | 9 months           | 0    | 1     |
| *10    | Woven fabrics (printed) .....                                                | 9 months           | 0    | 1     |
| 11     | Woven fabrics (furnitures printed)..                                         | 3 years            | 0    | 5     |
| 12     | Woven fabrics (not printed) .....                                            | 12 months          | 1    | 0     |
| 13     | Lace and other articles .....                                                | 12 months          | 1    | 0     |
|        |                                                                              |                    | £    | s. d. |
|        | Transfer .....                                                               | 1                  | 0    | 0     |
|        | Certifying Design same as registration fee, except for Class 1, which is.... | 1                  | 0    | 0     |
|        | Cancellation or substitution .....                                           | 1                  | 0    | 0     |
|        | *Search .....                                                                | 0                  | 2    | 6     |
|        | Inspection of Designs, of which the copyright has expired, each class ..     | 0                  | 1    | 0     |

\* These fees it is provided by the Act shall not exceed the sums stated.

under him, with the sanction of the Commissioners of the Treasury, in the execution of this Act; and the balance, if any, shall be carried to the Consolidated Fund of the United Kingdom, and be paid accordingly into the receipt of Her Majesty's Exchequer, at Westminster; and the Commissioners of the Treasury may regulate the manner in which such fees are to be received, and in which they are to be kept, and in which they are to be accounted for; and they may also remit or dispense with the payment of such fees in any cases where they may think it expedient so to do: Provided always, That the fee for registering a design to be applied to any woven fabric, mentioned or comprised in Classes 7, 9, or 10, shall not exceed the sum of one shilling; that the fee for registering a design to be applied to a paper-hanging, shall not exceed the sum of ten shillings; and that the fee to be received by the Registrar for giving a certificate relative to the existence or expiration of any copyright in any design printed on any woven fabric, yarn, thread, or warp, or printed, embossed, or worked on any paper-hanging, to any person exhibiting a piece end of a registered pattern, with the registration-mark thereon, shall not exceed the sum of two shillings and sixpence.

And be it enacted, That if either the Registrar or any other person employed under him, either

19.  
Penalty for  
extortion.



demand or receive any gratuity or reward, whether in money or otherwise, except the salary or remuneration authorized by the Commissioners of the Treasury, he shall forfeit for every such offence fifty pounds to any person suing for the same by action of debt in the Court of Exchequer, at Westminster; and he shall also be liable to be either suspended or dismissed from his office, and rendered incapable of holding any situation in the said office, as the Commissioners of the Treasury see fit.

20.  
Interpreta-  
tion Clause.

And, for the interpretation of this Act, be it enacted, That the following terms and expressions, so far as they are not repugnant to the context of this Act, shall be construed as follows; (that is to say) the expression "Commissioners of the Treasury" shall mean the Lord High Treasurer for the time being, or the Commissioners of Her Majesty's Treasury for the time being, or any three or more of them; and the singular number shall include the plural as well as the singular number; and the masculine gender shall include the feminine gender as well as the masculine gender.

21.  
Alteration of  
Act.

And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

## SCHEDULES

REFERRED TO BY THE FOREGOING ACT.

## SCHEDULE (A.)

- 27 Geo. 3, c. 38. (1787.) — An Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes and Muslins, by vesting the Properties thereof in the Designers, Printers and Proprietors, for a limited time.
- 29 Geo. 3, c. 19. (1789.)—An Act for continuing an Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes and Muslins, by vesting the Properties thereof in the Designers, Printers and Proprietors, for a limited Time.
- 34 Geo. 3, c. 23. (1794.)—An Act for amending and making perpetual an Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes and Muslins, by vesting the

Properties thereof in the Designers, Printers and Proprietors, for a limited Time.

2 Vict. c. 13. (1839.)—An Act for extending the Copyright of Designs for Calico Printing to Designs for printing other Woven Fabrics.

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SCHEDULE (B.)

2 Vict. c. 17. (1839.)—An Act to secure to Proprietors of Designs for Articles of Manufacture the Copyright of such Designs for a limited Time.

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SCHEDULE (C.)

38 Geo. 3, c. 71. (1798.)—An Act for encouraging the Art of making new Models and Casts of Busts, and other Things therein mentioned.

54 Geo. 3, c. 56. (1814.)—An Act to amend and render more effectual an Act for encouraging the Art of making new Models and Casts of Busts, and other Things therein mentioned, and for giving further Encouragement to such Arts.

STATEMENT AND FORMS  
ADOPTED AT THE REGISTRAR'S OFFICE.

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COPYRIGHT OF DESIGNS.

OFFICE OF REGISTRAR OF DESIGNS,  
35, Lincoln's Inn Fields.

By the Consolidated Designs Copyright Act, 5 and 6 Vict. c. 100, commencing its operation the 1st of September, 1842, a copyright or property is given to the authors or proprietors of original Designs for ornamenting any article of manufacture or substance, for the various terms specified in the following Classes :—

| CLASS. | ARTICLE.                         | COPYRIGHT. |
|--------|----------------------------------|------------|
| 1.     | Articles in Metal .....          | 3 years.   |
| 2.     | Articles in Wood .....           | 3 „        |
| 3.     | Articles in Earthenware .....    | 3 „        |
| 4.     | Articles in Glass .....          | 3 „        |
| 5.     | Paper Hangings .....             | 3 „        |
| 6.     | Carpets .....                    | 3 „        |
| 7.     | Shawls (patterns printed) ....   | 9 months.  |
| 8.     | Shawls (patterns not printed)... | 3 years.   |

9. Yarn, Thread or Warp (printed) 9 months.
10. Woven Fabrics, not Furnitures  
(patterns printed) ..... 9 „
11. Woven Fabrics, Furnitures (pat-  
terns printed) ..... 3 years.
12. Woven Fabrics (patterns not  
printed) ..... 12 months.
13. Lace and all other Articles ... 12 „

The rights conferred upon the authors or proprietors of Original Designs are subjected to the following conditions:—

1st. The Design must be registered.

2nd. After registration, every article of manufacture published by the proprietor on which such Design is used, must have thereon a particular MARK, which will be exhibited on the certificate of registration.

These conditions being observed, the right of the proprietor is protected from piracy by a penalty of from 5*l.* to 30*l.* for each offence, each individual illegal application or sale of a Design constituting a separate offence. This penalty may be recovered by the aggrieved party either by action in the superior Courts, or by a summary proceeding before two magistrates.

If a Design be executed by the author on behalf of another person for a valuable consi-

deration, the latter is entitled to be registered as the proprietor thereof; and any person purchasing either the exclusive or partial right to use the Design, is in the same way equally entitled to be registered, and for the purpose of facilitating such transfers, a short form is given in the Act.

A penalty of 5*l.* is imposed in the case of any person using the registration mark on any Design not registered, or the Copyright of which has expired, or when the Design has not been applied within the United Kingdom.

All Designs of which the Copyright has expired may be inspected at the Registrar's Office on the payment of the proper fee; but no Design, the Copyright of which is existing, is in general permitted to be seen. Any person, however, may, by application at the office, and on production of the registration mark of any particular Design, be furnished with a certificate of search, stating whether the Copyright be in existence, and in respect to which article of manufacture it exists; also, the term of such Copyright and the date of registration, and the name and address of the registered proprietor. Any party may also, on the production of a piece of the manufactured article with the pattern thereon, together with the registration mark, be informed whether such pattern, supposed to be registered, be really so or not.

### DIRECTIONS FOR REGISTERING.

ALL persons wishing to register a Design must bring or send to the registrar's office two copies thereof, together with the proper fees. These copies may consist, either of portions of the manufactured articles, when such can conveniently be done (as in the case of paper hangings, calico prints, &c.) or else of prints or drawings which, whether coloured or not, must be correct representations of the Design. These must be accompanied with the name and address of the proprietor or proprietors, or with the title of the firm under which he or they may be trading, and the place of carrying on business, and also with the number of that one of the above Classes, in respect of which such Design is intended to be registered. After the Design has been registered, one of the two copies will be filed at the office, and the other returned to the proprietor, with a certificate annexed, on which will appear the mark to be placed on each article of manufacture on which the Design is used.

A Design may be registered in respect of one or more of the above Classes, according as it is intended to be employed in one or more species of manufacture, but separate copies must be furnished, and a separate fee paid on

account of each separate Class, and all such registrations must be made at the same time.

All communications with the office for the registration of Designs may be made either through the general post or any other mode of conveyance, provided the carriage be paid; and if the proper fees, or an order for payment, be enclosed, the Designs will be duly registered, and the certified copies returned to the proprietor free of expense.

The registrar's office will be open every day on and after the 1st of September, 1842, between the hours of ten in the morning and four in the afternoon; and Designs and transfers will be registered from eleven until three, and the following are the fees ordered to be paid by the treasury:—

#### TABLE OF FEES.

| REGISTERING DESIGNS:— |   | £  | s. | d. |
|-----------------------|---|----|----|----|
| Class 1 .....         | 3 | 0  | 0  |    |
| Class 2 .....         | 1 | 0  | 0  |    |
| Class 3 .....         | 1 | 0  | 0  |    |
| Class 4 .....         | 1 | 0  | 0  |    |
| Class 5 .....         | 0 | 10 | 0  |    |
| Class 6 .....         | 1 | 0  | 0  |    |
| Class 7 .....         | 0 | 1  | 0  |    |
| Class 8 .....         | 1 | 0  | 0  |    |
| Class 9 .....         | 0 | 1  | 0  |    |
| Class 10 .....        | 0 | 1  | 0  |    |

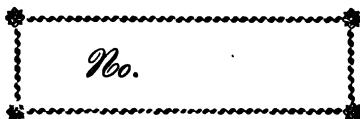


|                                                                               | £ | s. | d. |
|-------------------------------------------------------------------------------|---|----|----|
| Class 11 .....                                                                | 0 | 5  | 0  |
| Class 12 .....                                                                | 1 | 0  | 0  |
| Class 13 .....                                                                | 1 | 0  | 0  |
| Transfer .....                                                                | 1 | 0  | 0  |
| Certifying Design same as Registra-<br>tion Fee, but for Class 1 .....        | 1 | 0  | 0  |
| Cancellation or Substitution .....                                            |   |    |    |
| Search .....                                                                  | 0 | 2  | 6  |
| Inspection of Designs of which the<br>Copyright has expired, each Class ..... | 0 | 1  | 0  |
|                                                                               |   |    |    |

FORM OF CERTIFICATE OF REGISTRATION.



*Office of Registrar of Designs,  
London.*



I HEREBY CERTIFY that the DESIGN, of which this is a  
Copy, was on behalf of

of

REGISTERED this                      day of

in pursuance of the Designs Copyright Act, 5 and 6  
Vic. c. 100, in respect of the application of such De-  
sign to ornamenting Articles comprised in CLASS  
for which is granted a Copyright of

By 5 and 6 Vic. c. 100  
sec. 4, all Articles to  
which this Design is ap-  
plied, must bear THIS  
MARK during the Copy-  
right.



By sec. 11, any person  
who shall unlawfully ap-  
ply this Mark, or any  
other similar thereto,  
shall forfeit for every such  
offence a sum not ex-  
ceeding FIVE POUNDS.

FORM OF CERTIFICATE TO BE GIVEN ON SEARCH  
MADE AT THE REGISTRAR'S OFFICE.



*Office of Registrar of Designs,  
London.*

I HEREBY  
No: the Design  
MARK, and  
annexed is  
was on behalf of



CERTIFY, that  
bearing THIS  
of which the  
a true Copy,

of

REGISTERED the            day of

in pursuance of the Designs Copyright Act, 5 and  
6 Vic. c. 100, in respect of the Application of such  
Design to Articles comprised in Class  
for which a Copyright of            now  
is granted; and also to Articles comprised in Class  
for which a Copyright of  
now            is granted; and also to Articles  
comprised in Class            for which a Copyright  
of            now            is granted.

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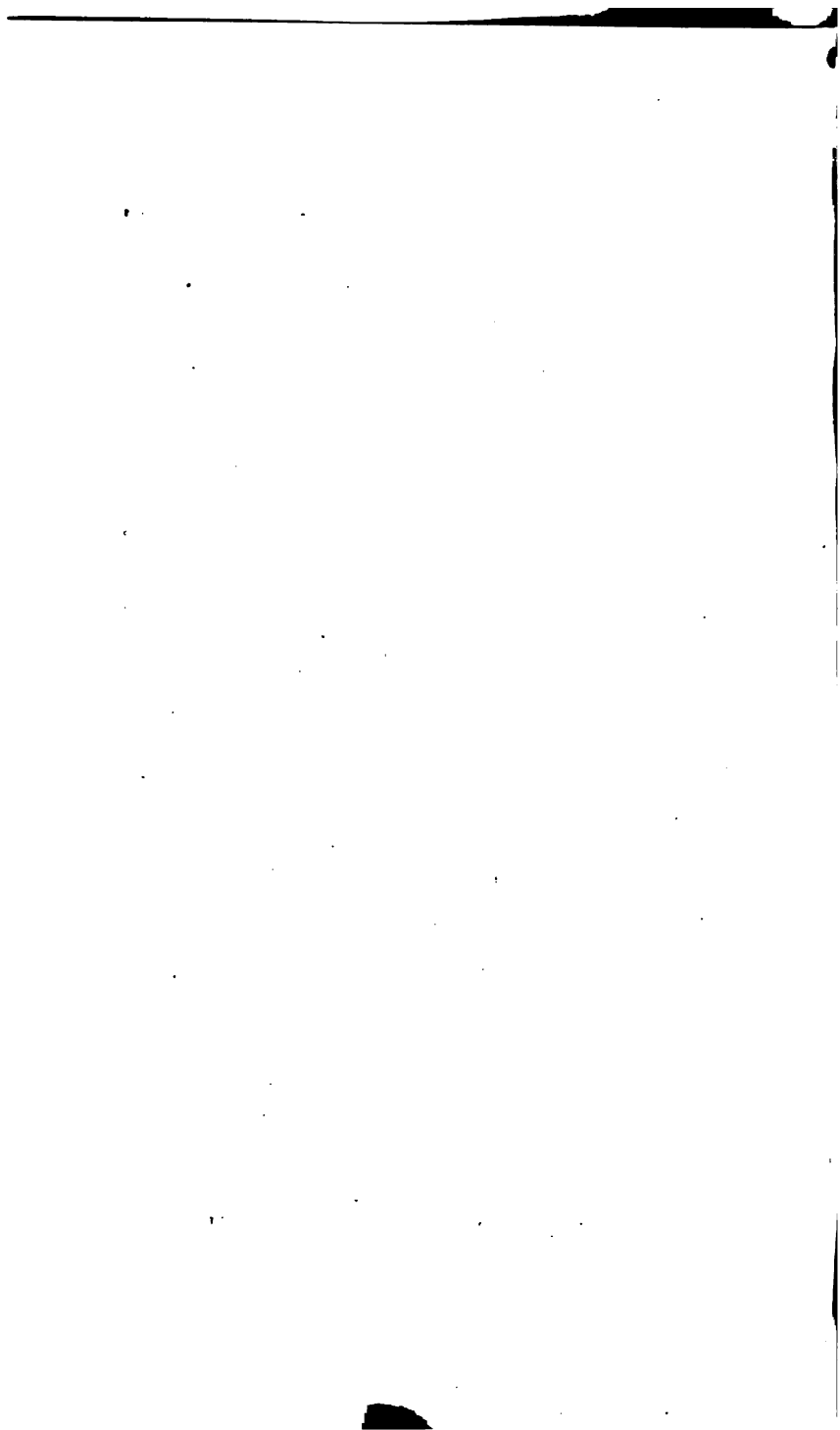
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